

E-Filed: July 17, 2014

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7 NOT FOR CITATION
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 CELINA GALINDO, ET AL.,

No. C13-00105 HRL

12 Plaintiffs,

**ORDER DENYING PLAINTIFFS'
MOTION TO AMEND**

13 v.

14 LEE TASSIO, ET AL.,

[Re: Docket No. 101]

15 Defendants.
_____ /

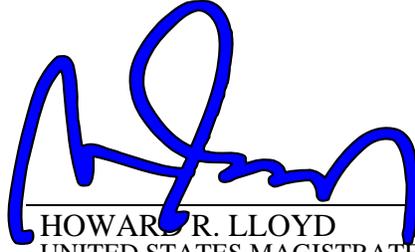
16 Plaintiffs move for leave to file a first amended complaint based on the Ninth Circuit's
17 recent holding in *Chaudry v. City of Los Angeles* that "California's prohibition against pre-death
18 pain and suffering damages . . . does not apply to § 1983 claims where the decedent's death was
19 caused by the violation of federal law," *Chaudry*, 751 F.3d 1096 (9th Cir. 2014). *See* First Am.
20 Compl., Dkt. No. 111. In an interim order, while expressing some doubt that amendment was even
21 necessary to recover damages for pre-death pain and suffering, the Court nevertheless ordered
22 Plaintiffs to file its proposed first amended complaint as required by Civil L.R. 10-1. *See* Inter
23 Order re: Pl.'s Mot. Leave Am., Dkt. No. 110. In addition to expressly seeking damages for pre-
24 death pain and suffering, Plaintiffs' proposed first amended complaint adds additional prayers for
25 relief unrelated to the *Chaudry* holding and not addressed in its motion. It also continues to assert a
26 § 1983 claim based on violation of the 14th Amendment, on which this Court previously granted
27 summary judgment for Defendant. Accordingly, Plaintiffs' proposed pleading is unacceptable, and
28 their motion to amend is DENIED. However, the Court stands by its initial assessment and finds

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that Plaintiffs' original complaint, which remains the operative pleading in this case, is sufficient to support recovery for pre-death pain and suffering as allowed by *Chaudry*. See Complaint for Damages, Dkt. No. 1.

IT IS SO ORDERED.

Dated: July 17, 2014



HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

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