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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

MADISON WOLANYK, a minor, by and  
through her guardian ad litem,  
EUGENE WOLANYK,  
  
Plaintiff,  
  
vs.  
  
SWEETWATER UNION HIGH SCHOOL  
DISTRICT, et al.,  
  
Defendants.

CASE NO. 17cv2415-LAB (MDD)  
  
**ORDER GRANTING MOTION TO  
DISMISS [Dkt. 8] AND DENYING  
PETITION FOR TORT CLAIM RELIEF  
[Dkt. 3]**

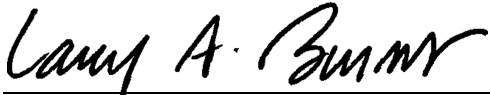
Madison Wolanyk couldn't travel to Disneyland with her Hilltop Middle School classmates the past two years because the school bus didn't have a wheelchair ramp. When her father found out, he sued the Sweetwater school district for violating the ADA and two California laws that protect disabled students like his daughter. Sweetwater moves to dismiss the state claims for lack of jurisdiction. Wolanyk agrees the Eleventh Amendment bars these claims against Sweetwater. The Court dismisses her two state claims without leave to amend. Fed. R. Civ. P. 12(b)(1). Her request for punitive damages is also stricken. Cal. Gov't Code § 818; see *Gallagher v. San Diego Unified Port Dist.*, 2009 WL 2781553, at \*11 (S.D. Cal. Aug. 31, 2009).<sup>1</sup>

<sup>1</sup> Wolanyk asks the Court to keep her state claims and punitive damage allegations alive in case she substitutes a Doe defendant. But she has a remedy for that: seek leave to amend.

1           Wolanyk also asks the Court to approve a petition for relief from the California  
2 Government Tort Claims Act. This petition must be filed in California superior court. Cal.  
3 Gov. Code § 946.6; see *Hill v. City of Clovis*, 2012 WL 787609 at \*12 (E.D. Cal. March 9,  
4 2012). Since Wolanyk concedes her two state claims aren't actionable, this issue doesn't  
5 much matter. The only action remaining in this case is Wolanyk's federal ADA claim—she's  
6 "not required to comply with California's claims filing requirements when asserting violations  
7 of federal rights." *Diaz v. State*, 1995 WL 138594, at \*1 (N.D. Cal. Mar. 28, 1995). Since the  
8 ADA claim in this case borrows California's three year statute of limitations, both trips to  
9 Disneyland are actionable. *Sharkey v. O'Neal*, 778 F.3d 767, 773 (9th Cir. 2015). The  
10 petition is denied.

11           **IT IS SO ORDERED.**

12 Dated:     June 5, 2018

  
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HONORABLE LARRY ALAN BURNS  
United States District Judge

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