

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Cheryl D. Dresdner, et al. v. Sacramento County Jail, et al.

Dresdner v. Sacramento County Jail · No. 2:23-cv-2038 DAD CSK P · Decided November 3, 2025

SUMMARY

The United States District Court for the Eastern District of California screened plaintiffs’ second amended complaint concerning the death of Kevin Dresdner in the Sacramento County Main Jail. The court found potentially cognizable Eighth Amendment deliberate-indifference claims against Deputy Arnold and Dylan Schmidt, while dismissing other claims and defendants with leave to amend or without prejudice, including claims based on HIPAA. The court also denied plaintiffs’ motion to compel discovery and motion to file documents electronically without prejudice, while permitting electronic receipt of court orders.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 3, 2025
DOCKET	2:23-cv-2038 DAD CSK P
DISPOSITION	other
PROCEDURAL POSTURE	Screening order on a pro se prisoner civil-rights action under 28 U.S.C. § 1915A following the filing of a second amended complaint. The court also ruled on plaintiffs' motion to compel discovery and motion for permission to file documents electronically.
STANDARD OF REVIEW	For § 1915A screening, the court liberally construed the pro se complaint and assessed whether the allegations stated a potentially cognizable claim. Conclusory allegations were insufficient under the facial-plausibility pleading standard.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Cheryl D. Dresdner, et al. v. Sacramento County Jail, et al.

TOPICS

section 1983

prisoners rights

cruel and unusual punishment

pleadings

discovery dispute

PRACTICE AREAS

civil rights

constitutional law

prisoner civil rights

health law

civil procedure

QUESTIONS PRESENTED

1. Whether the second amended complaint plausibly alleged Eighth Amendment deliberate-indifference claims against Deputy Arnold and Dylan Schmidt.
2. Whether the claims against Chris Carlson stated due-process violations arising from an alleged failure to provide a parole hearing or appoint counsel.
3. Whether Sacramento County Jail and Adult Correctional Health were proper § 1983 defendants.
4. Whether the allegations stated a municipal-liability or supervisory-liability claim against Sheriff Jim Cooper or Sacramento County.
5. Whether claims against the California Department of Corrections and Rehabilitation were barred by Eleventh Amendment immunity.
6. Whether HIPAA provides a private right of action for alleged disclosure of medical information.
7. Whether plaintiffs' motion to compel discovery was premature before screening and entry of a discovery and scheduling order.
8. Whether a pro se plaintiff should be permitted to file documents electronically at that stage of the case.

HOLDINGS

1. The allegations that defendants knew of Dresdner's serious mental-health and safety risks, failed to monitor him, delayed his move, and returned him to an unsafe environment were sufficient at the screening stage to state potentially cognizable Eighth Amendment claims against Deputy Arnold and Dylan Schmidt.
2. The due-process claims against Chris Carlson were dismissed with leave to amend because the allegations did not identify the relevant parole-hearing context or establish that the alleged violations remained actionable after Dresdner's death.
3. Sacramento County Jail and Adult Correctional Health, as alleged municipal departments or subunits, were not proper § 1983 defendants; plaintiffs were granted leave to amend to name Sacramento County if they could plead facts satisfying municipal-liability requirements.
4. The claim against Sheriff Jim Cooper was dismissed with leave to amend because the complaint contained only a vague and conclusory assertion concerning monitoring, supervision, training, customs, and policies and did not allege personal involvement or a sufficient causal connection.
5. The claims against CDCR were dismissed as barred by Eleventh Amendment immunity.
6. The HIPAA claim was dismissed because HIPAA does not provide a private right of action.

7. The motion to compel discovery was denied without prejudice as premature because the second amended complaint had not yet been screened and no discovery and scheduling order had issued.

KEY QUOTATIONS

“A defendant does not act in a deliberately indifferent manner unless the defendant “knows of and disregards an excessive risk to inmate health or safety.”” (Section II)

“A local government, however, may not be held responsible for the acts of its employees or officials under a respondeat superior theory of liability.” (Section III.B)

“However, HIPAA does not provide any private right of action.” (Section III.E)

“A district court must construe a pro se pleading “liberally” to determine if it states a claim and, prior to dismissal, tell a plaintiff of deficiencies in his complaint and give plaintiff an opportunity to cure them.” (Section IV)

FACTUAL BACKGROUND

Kevin Dresdner was incarcerated in the Sacramento County Main Jail after a parole violation and was allegedly known as a high-risk inmate with severe mental-health issues and a history of substance and alcohol abuse. Plaintiffs alleged that he reported anxiety, depression, and fear, requested relocation after physical altercations with cellmates, and was nevertheless delayed in moving or returned to an unsafe environment without adequate monitoring. He was later found unresponsive in his cell with serious physical injuries and died.

PROCEDURAL HISTORY

Plaintiffs filed a wrongful-death action alleging Eighth Amendment, due-process, and HIPAA violations arising from Kevin Dresdner's death while incarcerated in the Sacramento County Main Jail. After dismissing the first amended complaint with leave to amend, the court screened the second amended complaint. The court found potentially cognizable Eighth Amendment claims against Deputy Arnold and Dylan Schmidt, dismissed claims against several other defendants with leave to amend or without prejudice as specified, denied the motion to compel discovery without prejudice, and denied the motion to file electronically without prejudice while permitting electronic receipt of court orders.

DISPOSITION

other

CASES CITED

- Doty v. County of Lassen, 37 F.3d 540, 546 (9th Cir. 1994)
- Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006)
- Estelle v. Gamble, 429 U.S. 97, 104 (1976)
- Hutchinson v. United States, 838 F.2d 390, 394 (9th Cir. 1988)
- Farmer v. Brennan, 511 U.S. 825, 837 (1994)

- Conn v. City of Reno, 591 F.3d 1081, 1095 (9th Cir. 2010), cert. granted, judgment vacated sub nom. City of Reno, Nev. v. Conn, 563 U.S. 915 (2011), opinion reinstated, 658 F.3d 897 (9th Cir. 2011)
- Sellars v. Proconier, 641 F.2d 1295, 1302 (9th Cir.), cert. denied, 454 U.S. 1102 (1981)
- Brown v. California Department of Corrections, 554 F.3d 747, 751 (9th Cir. 2009)
- Monell v. Department of Social Services, 436 U.S. 658, 690-91 (1978)
- Thompson v. City of Los Angeles, 885 F.2d 1439, 1443 (9th Cir. 1989)
- Vance v. County of Santa Clara, 928 F. Supp. 993, 995-96 (N.D. Cal. 1996)
- Sanders v. Aranas, 2008 WL 268972, at *3 (E.D. Cal. Jan. 29, 2008)
- Board of County Commissioners v. Brown, 520 U.S. 397, 403 (1997)
- Castro v. County of Los Angeles, 833 F.3d 1060, 1073 (9th Cir. 2016) (en banc)
- Oviatt ex rel. Waugh v. Pearce, 954 F.2d 1470, 1474 (9th Cir. 1992)
- City of Canton v. Harris, 489 U.S. 378, 389 (1989)
- McCoy v. Sacramento County Jail, 2023 WL 1477638, at *3 (E.D. Cal. Feb. 2, 2023)
- West v. Atkins, 487 U.S. 42, 48 (1988)
- Jones v. Williams, 297 F.3d 930, 934 (9th Cir. 2002)
- Hansen v. Black, 297 F.3d 930, 646 (9th Cir. 1989)
- Johnson v. Duffy, 588 F.2d 740, 743-44 (9th Cir. 1978)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Starr v. Baca, 652 F.3d 1202, 1208 (9th Cir. 2011)
- Albright v. Oliver, 510 U.S. 266, 271 (1994)
- Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982)
- Connick v. Thompson, 563 U.S. 51, 61 (2011)
- Flores v. County of Los Angeles, 758 F.3d 1154, 1159 (9th Cir. 2014)
- Hyde v. City of Wilcox, 23 F.4th 863, 874 (9th Cir. 2022)
- Quern v. Jordan, 440 U.S. 332 (1979)
- Alabama v. Pugh, 438 U.S. 781 (1978) (per curiam)
- Jackson v. Hayakawa, 682 F.2d 1344, 1349-50 (9th Cir. 1982)
- United States v. Streich, 560 F.3d 926 (9th Cir. 2009)
- Webb v. Smart Document Solutions, LLC, 499 F.3d 1078, 1081 (9th Cir. 2007)
- Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir. 2000)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Ramirez v. County of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
 CALIFORNIA 10 11 CHERYL D. DRESDNER, et al., No. 2:23-cv-2038 DAD CSK P 12
 Plaintiffs, 13 v. ORDER 14 SACRAMENTO COUNTY JAIL, et al., 15 Defendants. 16 17

Plaintiffs proceed pro se and allege the wrongful death of inmate Kevin Dresdner while he 18 was incarcerated in the Sacramento County Main Jail.

Plaintiff Cheryl D. Dresdner, decedent's 19 widow, was granted leave to proceed in forma pauperis. (ECF No. 6.) Plaintiffs seek relief under 20 the Eighth Amendment based on federal question jurisdiction. This proceeding was referred to 21 this Court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On February 25, 2025, the Court 22 dismissed plaintiffs' first amended complaint with leave to amend. (ECF No. 12.) Following 23 extensions of time, plaintiffs filed a second amended complaint. (ECF No. 19.) 24 I. PLAINTIFFS' ALLEGATIONS 25 Plaintiffs name seven defendants: Sacramento County Jail ("SCJ"); Jim Cooper, 26 Sacramento County Sheriff; Adult Correctional Health ("ACH"); California Department of 27 Corrections and Rehabilitation ("CDCR"); Chris Carlson, Parole Officer; Dylan Schmidt, Social 28 Worker; and Deputy Arnold.

(ECF No. 19 at 2-5.) 1 Decedent Kevin Dresdner was a parolee sentenced to ninety days in the Sacramento 2 County Jail for a parole violation sustained on August 10, 2021. Plaintiffs aver that decedent was 3 known to the jail facility as a high risk inmate with severe mental health issues, with a history of 4 substance and alcohol abuse. (Id. at 7.)

On September 20, 2021, decedent was found 5 unresponsive in his cell, with seven fractured ribs, petechiae of his eyes, blood in his throat, and a 6 swollen tongue. (Id. at 8.) 7 In the first and second claims, plaintiffs allege that decedent's due process rights were 8 violated by defendant Chris Carlson's failure to provide decedent with an evidentiary hearing and 9 failure to appoint counsel at decedent's parole hearing.

(Id. at 7.) 10 In the third claim, plaintiffs allege that defendants SCJ, Dylan Schmidt, ACH, and Does 11 1-20, violated decedent's Eighth Amendment rights as well as privacy laws under the Health 12 Insurance Portability and Accountability Act of 1996 ("HIPAA") by sharing decedent's private 13 and sensitive health and mental health information over twelve times in non-confidential settings, 14 i.e. cell-side, exposing protected health information to other inmates, making decedent a 15 "vulnerable target in a hostile environment." (Id.)

16 In the fourth claim, plaintiffs allege defendants SCJ, Dylan Schmidt, Deputy Arnold, and 17 Does 1-20 were deliberately indifferent to decedent's health and safety by delaying his move and 18 returning him to an unsafe environment, ignoring his serious needs and failing to monitor and 19 observe him for his safety. (Id. at 8.) 20 In the fifth claim, plaintiffs allege that defendants SCJ, Deputy Arnold, Dylan Schmidt, 21 ACH, and "Does" failed to monitor and protect the safety of decedent, who told SCJ staff of his 22 "high level of anxiety, depression and fear" on the day he died, September 20, 2021.

(Id.) 23 Plaintiffs aver that defendants' failure to recognize suicide warning signs constituted deliberate 24 indifference to decedent's serious medical needs. (Id.) 25 In the sixth claim, plaintiffs allege that "[i]f it weren't for the inadequate monitoring, 26 supervision, customs, training and policies enacted under sheriff Jim Cooper, decedent's death 27 could have been prevented." (Id.)

28 Plaintiffs seek money damages. (Id. at 10.) Plaintiffs provided a copy of decedent's death 1 certificate, and an affidavit pursuant to California Civil Procedure Code § 337.32. (Id. at 11-18.) 2

II. COGNIZABLE CLAIMS 3 In his third, fourth, and fifth claims, plaintiffs allege that defendants Deputy Arnold and 4 Dylan Schmidt, a social worker, were deliberately indifferent to decedent's serious medical and 5 mental health needs in violation of the Eighth Amendment.

Because decedent was a convicted 6 inmate at the time of his death, plaintiffs' claims are based on the Eighth Amendment. 7 The Eighth Amendment guarantees that inmates receive constitutionally adequate medical 8 and mental health care. *Doty v. County of Lassen*, 37 F.3d 540, 546 (9th Cir. 1994). A 9 prisoner's claim of inadequate medical care does not constitute cruel and unusual punishment in 10 violation of the Eighth Amendment unless the mistreatment rises to the level of "deliberate 11 indifference to serious medical needs." *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir.

2006) 12 (quoting *Estelle v. Gamble*, 429 U.S. 97, 104 (1976)). Deliberate indifference may be shown by 13 the denial, delay, or intentional interference with medical treatment or by the way in which 14 medical care is provided. *Hutchinson v. United States*, 838 F.2d 390, 394 (9th Cir. 1988).

The 15 two-part test for deliberate indifference requires a plaintiff to show (1) "a 'serious medical need' 16 by demonstrating that failure to treat a prisoner's condition could result in further significant 17 injury or the 'unnecessary and wanton infliction of pain,'" and (2) "the defendant's response to 18 the need was deliberately indifferent." *Jett*, 439 F.3d at 1096.

A defendant does not act in a 19 deliberately indifferent manner unless the defendant "knows of and disregards an excessive risk 20 to inmate health or safety." *Farmer v. Brennan*, 511 U.S. 825, 837 (1994). A heightened suicide 21 risk or an attempted suicide is a serious medical need under the first prong. See *Conn v. City of 22 Reno*, 591 F.3d 1081, 1095 (9th Cir.

2010), cert. granted, judgment vacated sub nom. *City of 23 Reno, Nev. v. Conn*, 563 U.S. 915 (2011), and opinion reinstated, 658 F.3d 897 (9th Cir. 2011). 24 Plaintiffs allege that decedent was known to the jail facility as a high-risk inmate with 25 severe mental health issues, and on the day he died, decedent informed jail staff of his high level 26 of anxiety, depression and fear, yet defendants failed to monitor decedent and take steps to 27 prevent his death.

(ECF No. 19 at 8.) In addition, decedent had asked several times to be moved 28 from his cell after physical altercations with cellmates; however, the move was delayed, and 1 decedent was returned to an unsafe environment demonstrating defendants' deliberate 2 indifference by ignoring this risk to his safety.

The Court reviewed plaintiffs' second amended complaint and liberally construing plaintiffs' claims, and for the limited purposes of § 1915A screening, finds that plaintiffs' third, fourth and fifth claims state potentially cognizable Eighth Amendment claims against defendants Dylan Schmidt and Deputy Arnold. See 28 U.S.C. § 1915A. III. NONCOGNIZABLE CLAIMS For the reasons stated below, the Court finds that the second amended complaint does not state a cognizable claim against defendants Chris Carlson, SCJ, ACH, Jim Cooper and CDCR, or based on a violation of HIPAA.

These claims are dismissed, as set forth below. A. Defendant Chris Carlson Plaintiffs' first two claims alleging due process violations by defendant Chris Carlson are unclear. (ECF No. 19 at 7.) No context is provided for claim one; the Court is unable to tell whether decedent was entitled to an evidentiary hearing. Similarly, it is unclear whether decedent was denied counsel at the parole violation hearing or when he was seeking parole from prison.

These contexts would also assist the Court in determining whether "parole officer" refers to a parole agent or a member of the parole board. This distinction is important to determine whether immunity applies.

For example, parole board officials enjoy absolute immunity from suit "when processing parole applications." *Sellers v. Procunier*, 641 F.2d 1295, 1302 (9th Cir.), cert. denied, 454 U.S. 1102 (1981); *Brown v. Cal. Dep't of Corr.*, 554 F.3d 747, 751 (9th Cir. 2009) ("[P]arole board members are entitled to absolute immunity for parole board decisions.").

Further, plaintiffs have not demonstrated that such due process claims were not extinguished upon the death of decedent. Indeed, under either context, the Court could not remedy either due process violation by ordering a new hearing for decedent.

Thus, plaintiffs' due process claims against defendant Chris Carlson are dismissed with leave to amend. B. Defendants SCJ and ACH Municipalities and other local government units are among those "persons" to whom § 1983 liability applies. See *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690 (1978). Counties and municipal government officials are also "persons" for purposes of § 1983.

See *id.* at 691; see also *Thompson v. City of Los Angeles*, 885 F.2d 1439, 1443 (9th Cir. 1989). Local government sub-units, however, are not generally considered "persons" within the meaning of Section 1983. See *Vance v. County of Santa Clara*, 928 F. Supp. 993, 995-96 (N.D. Cal. 1996) (stating that "naming a municipal department as a defendant is not an appropriate means of pleading a § 1983 action against a municipality" and dismissing the Santa Clara Department of Corrections from the action); see also *Sanders v. Aranas*, 2008 WL 268972, at *3 (E.D.

Cal. Jan. 29, 2008) (finding 8 that the Fresno Police Department cannot be sued under Section 1983 because it is a sub-division 9 of the City of Fresno). 10 A local government, however, may not be held responsible for the acts of its employees or 11 officials under a respondeat superior theory of liability. See *Bd. of Cnty. Comm’rs v. Brown*, 520 U.S. 397, 403 (1997).

Municipal liability must rest on the actions of the municipality, and not on 13 the actions of its employees or officers. See *id.* To assert municipal liability, the plaintiff must 14 allege that the constitutional deprivation complained of resulted from a policy or custom of the 15 municipality. See *id.*; *Castro v. Cnty. of L.A.*, 833 F.3d 1060, 1073 (9th Cir.

2016) (en banc). 16 Here, the Sacramento County Jail (“SCJ”) is not a proper defendant in a claim under 17 § 1983 because it is a department of Sacramento County. *McCoy v. Sac Cnty. Jail*, 2023 WL 18 1477638, at *3 (E.D. Cal. Feb. 2, 2023). It also appears that defendant Adult Correctional 19 Healthcare (“ACH”) is a municipal department.

As such, defendant ACH is not a proper 20 defendant in a claim brought pursuant to § 1983. See *Vance*, 928 F. Supp. at 996. 21 It is unclear whether plaintiffs can amend their pleading to state a cognizable claim 22 against Sacramento County. Local governments are “persons” subject to liability under 42 U.S.C. 23 § 1983 where official policy or custom causes a constitutional tort, see *Monell*, 436 U.S. at 690; 24 however, a city or county may not be held vicariously liable for the unconstitutional acts of its 25 employees under the theory of respondeat superior.

See *Bd. of Cnty. Comm’rs. of Bryan Cnty.*, 520 U.S. at 403; *Monell*, 436 U.S. at 691. Local governing bodies therefore may be sued directly 27 under § 1983 for monetary, declaratory or injunctive relief for the violation of federal rights. See 28 *Monell*, 436 U.S. at 690. 1 However, to impose municipal liability under § 1983 for a violation of constitutional 2 rights resulting from governmental inaction or omission, a plaintiff must show: “(1) that he 3 possessed a constitutional right of which he or she was deprived; (2) that the municipality had a 4 policy; (3) that this policy amounts to deliberate indifference to the plaintiff’s constitutional 5 rights; and (4) that the policy is the moving force behind the constitutional violation.” *Oviatt By 6 and Through Waugh v. Pearce*, 954 F.2d 1470, 1474 (9th Cir.

1992) (quoting *City of Canton v. 7 Harris*, 489 U.S. 378, 389 (1989) (internal quotation marks omitted)). 8 Plaintiffs’ policy allegations are too vague and conclusory to determine whether plaintiffs 9 can state a cognizable claim against Sacramento County.

However, plaintiffs are granted leave to 10 amend to name Sacramento County as a defendant provided plaintiffs are able to allege specific 11 facts meeting the above standards. 12 C. Defendant Jim Cooper 13 The sole allegation as to defendant Sacramento County Sheriff Jim Cooper is that “[i]f it 14 weren’t for the inadequate monitoring, supervision, customs, training and

policies enacted under Sheriff Jim Cooper, decedent's death could have been prevented." (ECF No. 19 at 8.)

To state a claim under § 1983, a plaintiff must demonstrate: (1) the violation of a federal constitutional or statutory right; and (2) that the violation was committed by a person acting under the color of state law. See *West v. Atkins*, 487 U.S. 42, 48 (1988); *Jones v. Williams*, 297 F.3d 930, 934 (9th Cir. 2002). An individual defendant is not liable on a civil rights claim unless the facts establish the defendant's personal involvement in the constitutional deprivation or a causal connection between the defendant's wrongful conduct and the alleged constitutional deprivation.

See *Hansen v. Black*, 297 F.3d 930, 646 (9th Cir. 1989); *Johnson v. Duffy*, 588 F.2d 740, 743-44 (9th Cir. 1978). That is, plaintiffs may not sue any official on the theory that the official is liable for the unconstitutional conduct of his or her subordinates. *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

The requisite causal connection between a supervisor's wrongful conduct and the violation of the prisoner's constitutional rights can be established in a number of ways, including by demonstrating that a supervisor's own culpable action or inaction in the training, supervision, or control of his subordinates was a cause of plaintiff's injury. *Starr v. Baca*, 652 F.3d 1202, 1208 (9th Cir.

2011). "Section 1983 is not itself a source of substantive rights,' but merely provides a method for vindicating federal rights elsewhere conferred." *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (internal quotation marks and citation omitted). Vague and conclusory allegations concerning the involvement of supervisory personnel in civil rights violations or the failure to train or supervise are not sufficient to state a claim.

Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982). "A pattern of similar constitutional violations by untrained employees is 'ordinarily necessary' to demonstrate deliberate indifference for purposes of failure to train." *Connick v. Thompson*, 563 U.S. 51, 61 (2011) (citation omitted). A supervisor's failure to train or supervise subordinates may give rise to individual liability under § 1983 where the defendant "was deliberately indifferent to the need to train subordinates, and the lack of training actually caused the constitutional harm or deprivation of rights." *Flores v. County of Los Angeles*, 758 F.3d 1154, 1159 (9th Cir.

2014). "Under this standard, the plaintiff must allege facts to show that the official disregarded the known or obvious consequence that a particular omission in their training program would cause municipal employees to violate citizens' constitutional rights." *Hyde v. City of Wilcox*, 23 F.4th 863, 874 (9th Cir. 2022) (internal quotations, brackets, ellipsis, and citations removed).

17 Here, plaintiffs' sole allegation as to defendant Jim Cooper merely concludes he is liable, 18 without setting forth specific facts or identifying particular policies. Such conclusory statement is 19 insufficient to state a cognizable Eighth Amendment violation or policy or failure to train theory 20 of supervisor liability. Plaintiffs' claims are dismissed with leave to amend.

21 D. Defendant CDCR 22 Plaintiffs included no specific charging allegations against the CDCR. In any event, based 23 on plaintiffs' allegations, a claim against the CDCR would be barred. The Eleventh Amendment 24 serves as a jurisdictional bar to suits brought by private parties against a state or state agency 25 unless the state or the agency consents to such suit.

See *Quern v. Jordan*, 440 U.S. 332 (1979); 26 *Alabama v. Pugh*, 438 U.S. 781 (1978) (per curiam); *Jackson v. Hayakawa*, 682 F.2d 1344, 1349- 27 50 (9th Cir. 1982). In the instant case, the State of California has not consented to suit.

Thus, 28 plaintiffs' claims against the CDCR are legally frivolous and must be dismissed. 1 E. HIPAA Claim 2 Plaintiffs challenge the disclosure of decedent's medical and mental health information 3 under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Plaintiffs are 4 correct that decedent's medical and mental health information is private, or confidential.¹ 5 However, HIPAA does not provide any private right of action.

U.S. v. Streich, 560 F.3d 926 (9th 6 Cir. 2009); *Webb v. Smart Document Solutions, LLC*, 499 F.3d 1078, 1081 (9th Cir. 2007) 7 ("HIPAA itself provides no right of action."). Accordingly, plaintiffs' HIPAA claim is barred. 8 IV. PLAINTIFF'S OPTIONS 9 Plaintiffs may proceed forthwith to serve defendants Deputy Arnold and Dylan Schmidt 10 based on plaintiffs' third, fourth, and fifth claims that defendants Deputy Arnold and Dylan 11 Schmidt were deliberately indifferent to decedent's serious medical and mental health needs in 12 violation of the Eighth Amendment and pursue their claims against only those defendants or 13 plaintiffs may delay serving any defendant and attempt again to state a cognizable claim against 14 defendants Chris Carlson and Sheriff Jim Cooper, as well as Sacramento County.

If plaintiffs 15 elect to proceed forthwith against defendants Deputy Arnold and Dylan Schmidt, against whom 16 plaintiffs stated potentially cognizable claims for relief, then within thirty days plaintiffs must so 17 elect on the appended form.

In this event the Court will construe plaintiff's election as consent to 18 dismissal of the noncognizable claims and the remaining defendants without prejudice. Under 19 this option, plaintiffs do not need to file a third amended complaint. 20 Or, plaintiffs may delay serving any defendant and attempt again to state a cognizable 21 claim against defendants Chris Carlson and Jim Cooper, as well as Sacramento County.

If 22 plaintiffs elect to attempt to amend the second amended complaint to state a cognizable claim 23 against defendants Chris Carlson and Jim Cooper, as well as Sacramento County, plaintiffs

have 24 thirty days to do so. 25 Any third amended complaint must show the federal court has jurisdiction, the action is 26 1 “A provider of health care, health care service plan, or contractor shall not disclose medical 27 information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization....” California Civil Code 28 § 56.10(a) (exceptions provided in subdivision (b) or (c) not applicable here).

1 brought in the right place, and plaintiffs are entitled to relief if plaintiffs’ allegations are true. It 2 must contain a request for particular relief. Plaintiffs must identify as a defendant only persons 3 who personally participated in a substantial way in depriving decedent of a federal constitutional 4 right. *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir.

1978) (a person subjects another to the 5 deprivation of a constitutional right if he does an act, participates in another’s act or omits to 6 perform an act he is legally required to do that causes the alleged deprivation). 7 A district court must construe a pro se pleading “liberally” to determine if it states a claim 8 and, prior to dismissal, tell a plaintiff of deficiencies in his complaint and give plaintiff an 9 opportunity to cure them.

See *Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 2000). While 10 detailed factual allegations are not required, “[t]hreadbare recitals of the elements of a cause of 11 action, supported by mere conclusory statements, do not suffice.” *Ashcroft*, 556 U.S. at 678 12 (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). Plaintiffs must set forth 13 “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” 14 *Ashcroft*, 556 U.S. at 678 (quoting *Bell Atlantic Corp.*, 550 U.S. at 570).

15 A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the 16 defendant is liable for the misconduct alleged. The plausibility standard is not akin to a “probability requirement,” but it asks for 17 more than a sheer possibility that a defendant has acted unlawfully. Where a complaint pleads facts that are merely consistent with a 18 defendant’s liability, it stops short of the line between possibility and plausibility of entitlement to relief.

19 20 *Ashcroft*, 556 U.S. at 678 (citations and quotation marks omitted). Although legal conclusions 21 can provide the framework of a complaint, they must be supported by factual allegations, and are 22 not entitled to the assumption of truth. *Id.* 23 Any amended complaint must be complete in itself without reference to any prior 24 pleading. Local Rule 220; see *Ramirez v. County of San Bernardino*, 806 F.3d 1002, 1008 (9th 25 Cir.

2015) (“an ‘amended complaint supersedes the original, the latter being treated thereafter as 26 non-existent.’” (internal citation omitted)). Once plaintiffs file a third amended complaint, the 27

original pleading is superseded. 28 /// 1 V. MOTION TO COMPEL 2 On August 27, 2025, plaintiffs filed a motion to compel discovery. (ECF No. 18.)

The 3 Court finds that plaintiff's motion to compel discovery is premature. Plaintiffs did not file their 4 second amended complaint until September 15, 2025, and the Court had not yet screened the 5 second amended complaint to determine whether the pleading was sufficient to state a cognizable 6 § 1983 claim.

Thus, plaintiffs' motion to compel discovery is premature. Once a discovery and 7 scheduling order has issued, plaintiffs may propound discovery requests to defendants. 8 Therefore, plaintiff's motion to compel discovery is denied without prejudice. 9 VI. MOTION TO FILE DOCUMENTS ELECTRONICALLY 10 On September 15, 2025, plaintiff Cheryl D. Dresdner filed a motion for permission to file 11 documents electronically.

(ECF No. 22.) Plaintiff Cheryl D. Dresdner states that she has access 12 to the necessary technology, including a computer with internet access, and a valid email address, 13 and has a PACER account and is aware of the requirements and is willing to follow them. (Id. at 14 2.) She states that she understands and will comply with the requirements of the Court's 15 electronic filing system, including local rules and guidelines, and acknowledges that electronic 16 filings must be in a format specified by the Court and be compliant with all applicable 17 regulations.

(Id.) Plaintiff Cheryl D. Dresdner, who lives in Santee, California, far from the 18 Court, states that she would benefit from electronic filing for the convenience, efficiency and cost 19 effectiveness it would offer due to "time constraints and the distance." (Id.) 20 Generally, "any person appearing pro se may not utilize electronic filing except with 21 permission of the assigned Judge or Magistrate Judge." E.D.

Cal. L.R. 133(b)(2). "Requests to 22 use paper or electronic filing as exceptions from these Rules shall be submitted as stipulations as 23 provided in L.R. 143 or, if a stipulation cannot be had, as written motions setting out an 24 explanation of reasons for the exception." E.D. Cal. L.R. 133(b) (3). 25 At this juncture, the Court does not find good cause to depart from the normal filing 26 procedure for unrepresented litigants, and will deny plaintiff Cheryl D. Dresdner's request 27 without prejudice to renewal at a later date.

In the meantime, the Court will grant permission for 28 plaintiff Cheryl D. Dresdner to receive Court orders and findings and recommendations by email. 1 | She should notify this Court's courtroom deputy, Alexandra Waldrop, 2 | awaldrop@caed.uscourts.gov, of the appropriate e-mail address for Court orders to be sent to 3 || plaintiff Cheryl D. Dresdner. 4 | VII.

CONCLUSION 5 Accordingly, IT IS HEREBY ORDERED that: 6 1. Claims against defendants Chris Carlson and Jim Cooper are dismissed with leave to 7 || amend. Within thirty days of service of this order, plaintiffs may amend the second amended 8 | complaint to attempt to state cognizable

claims against these defendants, as well as Sacramento County. Plaintiffs are not obligated to amend their pleading.

2. The allegations in the second amended complaint are sufficient at least to state potentially cognizable claims against defendants Deputy Arnold and Dylan Schmidt. See U.S.C. § 1915A. If plaintiffs choose to proceed solely as to such claims, plaintiffs shall so indicate on the attached form and return it to the Court within thirty days from the date of this order.

In this event, the Court will construe plaintiffs' election to proceed forthwith as consent to an order dismissing the defective claims without prejudice. 3. Failure to comply with this order will result in a recommendation that the noncognizable claims be dismissed, and this action proceed on plaintiffs' Eighth Amendment claims against defendants Deputy Arnold and Dylan Schmidt.

4. Plaintiff's motion to compel discovery (ECF No. 18) is denied without prejudice. Plaintiffs motion to file electronically (ECF No. 220) is denied without prejudice, but plaintiff Cheryl D. Dresdner is granted permission to receive Court orders and findings and recommendations electronically as set forth above. Dated: November 03, 2025 A.A. Speer | CHI SOO KIM UNITED STATES MAGISTRATE JUDGE /1/dres2038.140 1] 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 CHERYL D. DRESDNER, et al, No. 2:23-cv-2038 DAD CSK P 12 Plaintiffs, 13 v. NOTICE OF ELECTION 14 SACRAMENTO COUNTY JAIL, et al., 15 Defendants.

16 17 18 Plaintiffs elect to proceed as follows: 19 _____ Plaintiffs opt to proceed with their Eighth Amendment claims against 20 defendants Deputy Arnold and Dylan Schmidt. Under this option, plaintiff consents to dismissal of the HIPAA claim and defendants CDCR, SCJ, and 21 ACH with prejudice, and consents to dismissal of defendants Chris Carlson and Jim Cooper without prejudice.

22 OR 23 _____ Plaintiffs opt to file a third amended complaint and delay service of 24 process. 25 DATED: 26 _____ 27 Plaintiff 28