

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Estate of Derrick Austin, et al. v. Kern County Sheriff’s Office, et al.

Estate of Austin · No. 1:24-cv-00647-CDB · Decided September 18, 2025

SUMMARY

The United States District Court for the Eastern District of California considers Hospital Defendants’ motion to dismiss claims arising from Derrick Austin’s suicide while in Kern County custody. The order addresses compliance with the California Government Claims Act and the sufficiency of federal and state claims, including negligence, medical malpractice, and civil-rights theories. The court grants the motion in part based on Plaintiffs’ failure to present their claims to the Kern County Hospital Authority, a separate public entity.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Christopher D. Baker
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 18, 2025
DOCKET	1:24-cv-00647-CDB
DISPOSITION	other
PROCEDURAL POSTURE	Hospital Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss all claims asserted against them in the second amended complaint.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court tests the sufficiency of the complaint, accepts well-pleaded allegations as true, draws reasonable inferences in favor of the nonmoving party, and determines whether the complaint states a facially plausible claim. The court may consider exhibits attached to or necessarily relied upon by the complaint when their authenticity is not disputed.
PRECEDENTIAL VALUE	unpublished
PARTIES	Estate of Derrick Austin, James Ledford, Lillie Wolfe v. Kern County Hospital Authority, Vivian De La Cruz, Ella Flaminiano, Mona De Guzman, Jei Li-Shapiro

TOPICS

motions to dismiss

section 1983

civil rights

civil procedure

health law

PRACTICE AREAS

civil rights

civil procedure

health law

torts

QUESTIONS PRESENTED

1. Whether Plaintiffs adequately pleaded compliance with the California Government Claims Act for their state-law claims against the Kern County Hospital Authority and its employees.
2. Whether Plaintiffs plausibly alleged that individual Hospital Defendants were deliberately indifferent to Austin's serious medical needs and substantial suicide risk in violation of the Fourteenth Amendment.
3. Whether Plaintiffs plausibly alleged a Fourteenth Amendment substantive due-process claim based on deprivation of the familial relationship with Austin.
4. Whether Plaintiffs adequately pleaded claims against the Kern County Hospital Authority itself.
5. Whether Plaintiffs should receive leave to amend the dismissed state-law claims.

HOLDINGS

1. A plaintiff asserting a tort claim against a public entity or public employee must allege compliance with the California Government Claims Act, including presentation of the claim to the proper public entity. Presenting a claim to the County of Kern did not satisfy the statutory requirement as to the separately constituted Kern County Hospital Authority.
2. The sixth, seventh, eighth, and ninth causes of action against Hospital Defendants were subject to dismissal because Plaintiffs failed to plead the required Government Claims Act presentation to KCHA.
3. Plaintiffs plausibly stated Fourteenth Amendment claims under 42 U.S.C. § 1983 against the individual Hospital Defendants for failure to protect Austin from suicide and failure to provide adequate medical care.
4. Plaintiffs plausibly stated a Fourteenth Amendment substantive-due-process claim based on deprivation of the familial relationship with Austin.
5. Plaintiffs were granted leave to amend the dismissed sixth, seventh, eighth, and ninth causes of action only to the extent they could cure the identified Government Claims Act defects in good faith.

KEY QUOTATIONS

“The Fourteenth Amendment protects the rights of pretrial detainees.” (Section IV.B.1)

“A complete failure to treat the prisoner is not a prerequisite.” (Section IV.B.2)

“The motion is GRANTED, with leave to amend, as to the sixth, seventh, eighth, and ninth causes of action against Hospital Defendants.” (Conclusion and Order ¶ 1)

FACTUAL BACKGROUND

Derrick Austin was a pretrial detainee who exhibited repeated suicidal ideation and self-harming conduct while confined in Kern County facilities. Hospital Defendants allegedly knew of his serious mental-health and suicide-risk history, conducted repeated assessments, administered or attempted to administer medication, and placed him on suicide watch or in safety housing at various times. Plaintiffs alleged that defendants nevertheless failed to take reasonable additional measures, removed Austin from suicide watch in a housing setting containing suicide hazards, and failed to respond adequately before he died by hanging on May 3, 2023.

PROCEDURAL HISTORY

Plaintiffs filed the action on May 31, 2024, later filed amended complaints, and filed the operative second amended complaint on April 21, 2025. Hospital Defendants moved to dismiss on May 27, 2025. The court granted the motion in part, dismissing the state-law claims against Hospital Defendants with leave to amend, and denied it as to the federal constitutional and related claims addressed in the order.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Plaintiffs may file a third amended complaint within 14 days of entry of the order, limited to the sixth, seventh, eighth, and ninth causes of action and only to the extent they can cure the identified defects in good faith.

CASES CITED

- *N. Star Int'l v. Ariz. Corp. Comm'n*, 720 F.2d 578, 581 (9th Cir. 1983)
- *Peck v. Hoff*, 660 F.2d 371, 374 (8th Cir. 1981)
- *Balistreri v. Pacifica Police Department*, 901 F.2d 696, 699 (9th Cir. 1990)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)
- *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)
- *Hebbe v. Pliler*, 627 F.3d 338, 340 (9th Cir. 2010)
- *Seven Arts Filmed Entertainment, Ltd. v. Content Media Corp. PLC*, 733 F.3d 1251, 1254 (9th Cir. 2013)
- *Daniels-Hall v. National Education Association*, 629 F.3d 992, 998 (9th Cir. 2010)
- *Hamilton v. Bank of Blue Valley*, 746 F. Supp. 2d 1160, 1167-1168 (E.D. Cal. 2010)
- *Van Winkle v. Allstate Insurance Co.*, 290 F. Supp. 2d 1158, 1162 n.2 (C.D. Cal. 2003)
- *Marder v. Lopez*, 450 F.3d 445, 448 (9th Cir. 2006)
- *Branch v. Tunnell*, 14 F.3d 449, 454 (9th Cir. 1994)
- *Galbraith v. County of Santa Clara*, 307 F.3d 1119 (9th Cir. 2002)
- *Karim-Panahi v. Los Angeles Police Department*, 839 F.2d 621, 627 (9th Cir. 1988)
- *Fisher v. Pickens*, 225 Cal. App. 3d 708, 718 (1990)

- *Pac. Tel. & Tel. Co. v. County of Riverside*, 106 Cal. App. 3d 183, 188 (1980)
- *Jefferson v. City of Fremont*, No. C-12-0926 EMC, 2013 WL 1747917, at *9 (N.D. Cal. Apr. 23, 2013)
- *Ocean Services Corp. v. Ventura Port District*, 15 Cal. App. 4th 1762, 1775 (1993)
- *City of Stockton v. Superior Court*, 42 Cal. 4th 730, 738 (2007)
- *Franklin v. City of Kingsburg*, No. 1:18-CV-0824 AWI SKO, 2023 WL 2976285, at *3 (E.D. Cal. Apr. 17, 2023)
- *California-American Water Co. v. Marina Coast Water District*, 86 Cal. App. 5th 1272, 1287 (2022)
- *DiCampi-Mintz v. County of Santa Clara*, 55 Cal. 4th 983, 987-997 (2012)
- *Soublet v. County of Alameda*, No. 18-CV-03738-JST, 2018 WL 6268872, at *3 (N.D. Cal. Nov. 29, 2018)
- *Phillips v. Desert Hospital District*, 49 Cal. 3d 699, 707 (1989)
- *Frazier v. City of Fresno*, No. 1:20-CV-01069-ADA-SAB, 2023 WL 4108322, at *37 (E.D. Cal. June 21, 2023)
- *Hicks v. Hamkar*, No. 2:13-CV-01687-KJM-DB, 2016 WL 5847011, at *8 (E.D. Cal. Oct. 6, 2016)
- *Benavidez v. County of San Diego*, 993 F.3d 1134, 1144 (9th Cir. 2021)
- *Long v. County of Los Angeles*, 442 F.3d 1178, 1185 (9th Cir. 2006)
- *West v. Atkins*, 487 U.S. 42, 48 (1988)
- *Ewing v. City of Stockton*, 588 F.3d 1218, 1235 (9th Cir. 2009)
- *Preschooler II v. Clark County School Board of Trustees*, 479 F.3d 1175, 1183 (9th Cir. 2007)
- *Bell v. Wolfish*, 441 U.S. 520, 545 (1979)
- *Sandoval v. County of San Diego*, 985 F.3d 657, 667-669 (9th Cir. 2021)
- *Castro v. County of Los Angeles*, 833 F.3d 1060, 1070-1071 (9th Cir. 2016)
- *Gordon v. County of Orange*, 888 F.3d 1118, 1124-1125 (9th Cir. 2018)
- *Wilson v. Seiter*, 501 U.S. 294, 303 (1991)
- *Lemire v. California Department of Corrections & Rehabilitation*, 726 F.3d 1062, 1075 (9th Cir. 2013)
- *Clouthier v. County of Contra Costa*, 591 F.3d 1232, 1242 (9th Cir. 2010)
- *Castro v. County of Los Angeles*, 833 F.3d 1060 (9th Cir. 2016)
- *Estate of Prasad ex rel. Prasad v. County of Sutter*, 958 F. Supp. 2d 1101, 1112, 1116 (E.D. Cal. 2013)
- *Deloney v. County of Fresno*, 2021 WL 1946665, at *1-*2, *7-*8 (E.D. Cal. May 14, 2021)
- *Est. of Jessie P. Contreras v. County of Glenn*, No. 2:09-CV-2468-JAM-EFB, 2010 WL 4983419, at *4 (E.D. Cal. Dec. 2, 2010)
- *Palacios v. County of San Diego*, No. 20-CV-450-MMA (DEB), 2020 WL 4201686, at *11 (S.D. Cal. July 22, 2020)
- *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000)
- *Carvalho v. Equifax Information Services, LLC*, 629 F.3d 876, 892-893 (9th Cir. 2010)
- *Rich v. Shrader*, 823 F.3d 1205, 1209 (9th Cir. 2016)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 ESTATE OF DERRICK AUSTIN, et al., Case No. 1:24-cv-00647-CDB 12
Plaintiffs, ORDER GRANTING IN PART DEFENDANTS’ MOTION TO DISMISS 13 v. 14
(Docs. 65, 70, 71) KERN COUNTY SHERIFF’S OFFICE, et al., 15 Defendants. 16 17 Pending
before the Court¹ is the motion of Defendants Kern County Hospital Authority 18 (“KCHA”),
Vivian De La Cruz, Ella Flaminiano, Mona De Guzman, and Jei Li-Shapiro 19 (collectively, the
“Hospital Defendants”) to dismiss all claims against them asserted in the 20 operative, second
amended complaint.

(Doc. 65). On June 10, 2025, Plaintiffs Estate of Derrick 21 Austin, James Ledford, and Lillie
Wolfe (“Plaintiffs”) filed an opposition to the motion to dismiss, 22 and on June 18, 2025,
Hospital Defendants filed a reply. (Docs. 70, 71). 23 I. Background 24 A. Procedural History 25
On May 31, 2024, Plaintiffs initiated this action with the filing of a complaint against the 26 Kern
County Sheriff’s Office (“KCSO”), the County of Kern, Sheriff Donny Youngblood, the 27 1
Following all parties’ expression of consent to the jurisdiction of a magistrate judge for all further
proceedings in this action, including trial and entry of judgment, on April 17, 2025, this action was
1 KCHA, and ten unnamed Doe defendants.

(Doc. 1). On August 8, 2024, Plaintiffs filed their first 2 amended complaint. (Doc. 7). On
November 21, 2024, the Court issued its order scheduling all 3 case management dates. (Doc. 34).
4 On April 16, 2025, the parties filed a stipulated request for leave by Plaintiffs to file a second 5
amended complaint that chiefly sought to add 11 individually named defendants.

(Doc. 51). On 6 April 17, 2025, the Court granted Plaintiffs leave to file a second amended
complaint. (Doc. 54). 7 Plaintiffs filed the operative, second amended complaint (“SAC”) on April
21, 2025. (Doc. 55). 8 On May 21, 2025, the County Defendants filed an answer (Doc. 64) and, on
May 27, 2025, the 9 Hospital Defendants filed their pending motion to dismiss (Doc.

65). 10 B. Factual Allegations in the Second Amended Complaint 11 In the SAC, Plaintiffs allege
that, on March 2, 2023, Derrick Austin (“Decedent”) was 12 arrested. (Doc. 55 ¶ 42). On March 3,
2023, he was “transferred to the Lerdo Pre-Trial Facility 13 following his initial booking into the
Central Receiving Facility.” Id. ¶ 43.

On March 4, 2023, 14 after Decedent was found “wrapping a linen around his neck,” he was
“placed on suicide watch” 15 by Defendant Ella Flaminiano, a nurse, who “submitted a referral to
Correctional Behavioral Health 16 for further evaluation and treatment.” Decedent was then
transferred to the Lerdo Justice Facility. 17 Id. ¶ 44. 18 Plaintiffs alleged that “correctional
medical staff were aware that [Decedent] suffered from 19 a number of mental health conditions
and disabilities” and “had a history of treatment with multiple 20 psychiatric medications,”
including by virtue of his prior terms of custody within County of Kern 21 facilities.

Id. ¶¶ 41, 45. On March 7, 2023, Decedent was “placed in a safety cell” after “custody 22 staff observed [Decedent] engaging in self-harming behavior by repeatedly hitting his head on the 23 inside of his cell door.” On March 14, 2023, Decedent “was again observed engaging in self- 24 harming behavior by banging his head on the wall.” Decedent “warned Sheila Membreve, a 25 custody staff member, that he would continue to bang his head on the wall if he was kept in a 26 suicide watch and would rip out the floor in his cell.” Id. ¶ 47.

On March 20, 2023, Decedent “was 27 removed from suicide watch and rehoused” and “broke the fire sprinkler in his cell.” Id. ¶ 48. On 1 March 22, 2023, “a subsequent referral was submitted to Correctional Behavioral Health for 2 [Decedent] to receive evaluation and treatment.” Id. ¶ 49. 3 On March 23, 2023, Decedent was “evaluated at the pretrial infirmary for suicide watch” 4 and assessed by Defendant Flaminiano, “who confirmed that [Decedent] verbalized suicidal 5 thoughts” and “noted that when she asked [Decedent] if he had a ‘plan,’ he just shrugged his 6 shoulders.” Decedent was transferred back to Lerdo Justice Facility “for suicide watch.” Id. ¶ 50.

7 On March 23, 2023, Decedent “continued engaging in self-harming behavior” and “custodial staff 8 observed him repeatedly banging his forehead on a glass door,” causing it to “bleed and swell, as 9 noted by Nurse Besmanos.” Id. ¶ 51.

On March 28, 2023, Decedent again repeatedly banged “his 10 forehead on the glass door of his cell” and “Nurse Acosta documented [Decedent]’s injuries from 11 the self-harming behavior.” Decedent was “placed back in a safety cell following this incident.” 12 Id. ¶ 52.

On April 6, 2023, “custody and medical staff observed injuries on [Decedent]’s head” 13 that were “sustained following [Decedent]’s continuous banging of his head on a window.” 14 Decedent “verbalized that he did not want to be on suicide watch” and, Plaintiffs represent on 15 information and belief, “custody and medical staff left [Decedent] to his own devices ...” Id. ¶ 53.

16 On April 8, 2023, Decedent “was placed on suicide watch by Defendant Nurse Jei Li- 17 Shapiro due to being aggressive, uncooperative and spitting on a deputy. As a result, [Decedent] 18 was pepper sprayed by custody staff.” Id. ¶ 54 (capitalization omitted).

On April 9, 2023, Decedent 19 “was noted to be agitated and uncooperative,” and having “spit on a deputy. Nurse Cagampan 20 documented that [Decedent] was pepper sprayed by custody staff.” Decedent “was placed back on 21 suicide watch after refusing his scheduled evening psych medications.” Id. ¶ 55.

On April 11, 22 2023, Decedent was “observed engaging in self-harming behavior causing bleeding and swelling 23 to his head, as noted by Nurse Besmanos.” Id. ¶ 56. On April 16, 2023, Decedent was “again 24 assessed for injury after repeatedly banging his forehead on the glass window of his cell, as 25 documented by Nurse Manpreet Pandher.” Id. ¶ 58. That same day, Decedent “was observed 26 screaming in his cell and exclaiming that he is possessed by a demon.

[Decedent] again repeatedly 27 banged his forehead on his cell window, causing bleeding as documented by [Defendant] 1 On April 19, 2023, Defendant Flaminiano “documented that [Decedent] was making loud 2 noises and cursing at custody staff” and “observed blood on the glass window and wall of 3 [Decedent]’s cell” resulting from Decedent “repeatedly banging his head on the glass window.” Id. 4 ¶ 60.

On April 22, 2023, Defendant Li-Shapiro “evaluated [Decedent] due to complaints of left 5 shoulder pain after he attempted to climb out of the food slot of his cell.” Id. ¶ 57. That same day, 6 Defendant Li-Shapiro “observed [Decedent]’s bizarre behaviors such that she noted he was vulgar, 7 yelling, and crying” and that Decedent “was banging his head intermittently on the window in his 8 cell while completing a suicide risk assessment.” Id. ¶ 61.

On April 25, 2023, Decedent “refused 9 to take his medication,” “threw the cup of water he was provided at his cell door,” and stated, “I’m 10 going to hoard my medication and overdose.” Decedent “remained on suicide watch following this 11 incident.” Id. ¶ 62. 12 On April 27, 2023, “the court determined that [Decedent] needed to be placed in State 13 Hospital Evaluation Competency due to the custody and medical staff’s obvious inability to care 14 for [Decedent].” Id. ¶ 63.

On May 1, 2025, Defendant Cuem took Decedent off suicide watch at 15 2:25 p.m., “in accordance with Defendant” Tiffani Moore, “despite having spent the majority of 16 his time on suicide watch since March 4, 2023 – during which time he continuously exhibited self- 17 harming behavior and suicidal ideation.” Id. ¶ 64. Defendant Vivan De La Cruz “completed 18 multiple suicide risk assessments including on March [6, 7, 10, 12, 15, and 16], and April [26 and 19 27].” Defendant De La Cruz “documented [Decedent]’s continuous refusals to take his medication 20 and took no further action.” Id. ¶ 65.

Defendant Flaminiano “completed multiple suicide risk 21 assessments including on March [10 and 14] [and] April [14, 15, 16, 19, and 20] in which she 22 documented [Decedent]’s medication refusals.” Id. ¶ 66. Defendant Li-Shapiro “completed 23 multiple suicide risk assessments including on March [11 and 13] [and] April [10, 12, 13, 17, 22, 24 23, 26, 27, and 28] in which it was documented that [Decedent] continuously refused to take his 25 psychiatric medications.” Id. ¶ 67.

26 On May 2, 2023, “in the hours prior to [Decedent]’s death,” Defendant Mona De Guzman, 27 a nurse, “attempted to administer [Decedent] his medication which he ultimately refused and no 1 “conducted a safety check on [Decedent]’s cell.” “Despite the fact that [Decedent] was not 2 responsive to [Defendant Andrews]’ verbal callout,” Defendant Andrews “moved along to the other 3 cells.

Approximately 25 minutes later, on May 3, 2023, at 12:01 [a.m.], [Defendant Andrews] 4 approached [Decedent]’s cell and noticed [Decedent] was under the bunk bed in a prone position.” 5 Defendant Andrews “instructed [Decedent] to get out from under the bed” and received no 6 response. Defendant Andrews then “radioed for further assistance.” Defendant Mora arrived and 7 both Mora and Andrews “moved [Decedent] from under the bed to the floor and placed him in a 8 supine position,” documenting that Decedent “had the elastic waist band of his boxers around his 9 throat.” After “life-saving measures were attempted, [Decedent] was declared dead at 12:49 [a.m.]

10 on May 3, 2023.” This was 34 hours after being taken off suicide watch. Id. ¶ 69. 11 The cause of death was determined to be suicide by hanging. Id. ¶ 70. “Correctional 12 medical records indicated that [Decedent] had a history of suicidal behavior prior to and during his 13 incarceration,” with past suicidal behavior “noted during several mental health evaluations” 14 conducted “by correctional medical staff at the [County of Kern] [j]ails from January 2021 through 15 November 2022.” During a prior incarceration at a jail of the County of Kern, on October 19, 2022, 16 Decedent “endorsed suicidal ideation with a plan to disassemble his vape and use [] the pieces to 17 cut his neck.” Decedent was “placed on numerous 5150 holds during that same time period,” and 18 had a “well documented ... history of psychiatric medications.” Id. ¶ 71.

19 Plaintiffs allege that the KCSO custody and medical staff had access to these prior records 20 when Decedent returned to KCSO custody on March 2, 2023, and any competent staff would have 21 considered this past behavior, the criminal charges “indicative of impulse control,” history of 22 mental disorders, and treatment with psychiatric medications to result in “significant elevated risk 23 of suicide in a jail environment warranting a suicide prevention plan with heightened levels of 24 supervision and monitoring and the removal of any suicide hazards from [Decedent]’s housing 25 unit.” Id. ¶ 72.

26 Plaintiffs allege that KCSO custody and medical staff ignored all such signs of elevated 27 suicide risk when deciding on May 1, 2023, to take Decedent off of suicide watch “in a setting with 1 which could be used for self-harm.” Staff “failed to consult with the mental health clinicians 2 regarding [Decedent]’s elevated risk of suicide.” Id. ¶ 73. Plaintiffs allege that KCSO staff “failed 3 to implement a suicide prevention plan which put in place monitoring or housing protocols for 4 inmates that were removed from [s]uicide [w]atch status but continued to have an elevated risk of 5 suicide,” and competent staff would have placed Decedent in housing with “substantially improved 6 observation capabilities and without suicide hazards, such as items that could be used as ligatures 7 and attachment points.” Id. ¶ 74.

8 Plaintiffs assert that KCSO staff were “not provided with training or supervision regarding 9 what they should do if an inmate was removed from suicide watch but continued to have an elevated 10 suicide risk,” with “no guidelines for additional monitoring or the removal of suicide

hazards.” Id. ¶ 75. Plaintiffs allege, on information and belief, that Decedent’s need for emergency medical intervention went unnoticed by KCSO staff, due to Defendant County of Kern’s jails’ “patterns and practices of not conducting proper and timely welfare and safety checks.” Id. ¶ 76.

II. Governing Authority A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) asks a court to dismiss a plaintiff’s complaint for failing “to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). A motion to dismiss under Rule 12(b)(6) tests the complaint’s sufficiency. *N. Star Int’l v. Ariz. Corp. Comm’n.*, 720 F.2d 578, 581 (9th Cir.

1983) (citing *Peck v. Hoff*, 660 F.2d 371, 374 (8th Cir. 1981)). A complaint may be dismissed as a matter of law either for lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990) (citing *Robertson v. Dean Witter Reynolds, Inc.*, 749 F.2d 530, 533-34 (9th Cir.

1984)). To survive a motion to dismiss under Rule 12(b)(6), a complaint must provide sufficient factual matter to state a claim to relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); see Fed. R. Civ. P. 8(a)(2) (a complaint must contain a short and plain statement of the claim showing that the pleader is entitled to relief).

A complaint satisfies the plausibility requirement if it contains sufficient facts for the court to “draw [a] reasonable inference that the defendant is liable for the misconduct alleged.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). When considering a Rule 12(b)(6) motion to dismiss for failure to state a claim, the court must accept as true all allegations put forth in the complaint and construe all facts and inferences in favor of the non-moving party.

Erickson v. Pardus, 551 U.S. 89, 94 (2007) (citations omitted); *Hebbe v. Pliler*, 627 F.3d 338, 340 (9th Cir. 2010). The complaint need not include “detailed factual allegations,” but must include “more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678 (citations omitted).

The Court is “not ‘required to accept as true allegations that contradict exhibits attached to the Complaint or matters properly subject to judicial notice, or allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences.’” *Seven Arts Filmed Entm’t, Ltd. v. Content Media Corp. PLC*, 733 F.3d 1212, 1254 (9th Cir.

2013) (quoting *Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998 (9th Cir. 2010)). “For a [Rule] 12(b)(6) motion, a court generally cannot consider material outside the complaint.” *Hamilton v. Bank of Blue Valley*, 746 F. Supp.2d 1160, 1167 (E.D. Cal. 2010) (citing *Van Winkle v. Allstate Ins. Co.*, 290 F. Supp.2d 1158, 1162 n.2 (C.D. Cal. 2003)). “Nonetheless, a court may consider exhibits submitted with the complaint.” Id. In addition, a “court may consider evidence on which the complaint ‘necessarily relies’ if: (1) the complaint refers to the

document; 19 (2) the document is central to the plaintiff's claim; and (3) no party questions the authenticity of 20 the copy attached to the 12(b)(6) motion." *Id.* at 1168 (quoting *Marder v. Lopez*, 450 F.3d 445, 21 448 (9th Cir.

2006)); accord, *Branch v. Tunnell*, 14 F.3d 449, 454 (9th Cir. 1994) ("[D]ocuments 22 whose contents are alleged in a complaint and whose authenticity no party questions, but which are 23 not physically attached to the pleading, may be considered in ruling on a Rule 12(b)(6) motion to 24 dismiss."), overruled on other grounds by *Galbraith v. Cnty. of Santa Clara*, 307 F. 3d 1119 (9th 25 Cir.

2002). "A court may treat such a document as 'part of the complaint, and thus may assume 26 that its contents are true for purposes of a motion to dismiss under Rule 12(b)(6).'" *Hamilton*, 746 27 F. Supp.2d at 1168 (quoting *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003)). 1 III. Parties' Contentions 2 Hospital Defendants contend that all claims brought against them in the SAC should be 3 dismissed.

See (Doc. 65). They assert that the Plaintiffs failed to comply with the California 4 Government Claims Act regarding claims presentation and administrative exhaustion of state law 5 tort claims. *Id.* at 8-10. Separately, Hospital Defendants assert that Plaintiffs fail to plead facts 6 sufficient to state a claim pursuant to 42 U.S.C. §§ 1983 and 12101, 28 U.S.C. § 2201, and 29 7 U.S.C. § 701.

Id. at 10-13. Lastly, Hospital Defendants argue that Plaintiffs fail to plead sufficient 8 facts to state a claim as to negligence – wrongful death, negligence – medical malpractice, violation 9 of Cal. Gov't Code § 845.6, and Cal. Civ. Code § 52.1 (the "Bane Act"). *Id.* at 13-18. 10 In opposition to the motion, Plaintiffs contends that they sufficiently complied with the 11 Government Claims Act and, alternatively, equitable estoppel bars Hospital Defendants' argument 12 of noncompliance due to "misleading communication" by the County of Kern.

(Doc. 70 at 13-15). 13 Further, Plaintiffs assert that, pursuant to California law, the delayed discovery rule applies because 14 Plaintiffs did not, and reasonably could not, discover that KCHA was a separate entity from the 15 County of Kern. *Id.* at 14-16 (citing, *inter alia*, Cal. Gov't Code § 910.8). Plaintiffs argue that the 16 SAC sufficiently pleads the required elements for the state and federal claims.

Id. at 16-21. 17 Plaintiffs request that, if any aspect of Hospital Defendants' motion is granted, they be granted 18 leave to amend. *Id.* at 21. Plaintiffs attach to their opposition the declaration of counsel Denisse 19 O. Gastélum (Doc. 70-2), including as exhibits thereto copies of Plaintiffs' claims submitted to the 20 County of Kern prior to initiating litigation (*id.*, Ex. A) and the County of Kern's notices of 21 rejections of the claims (*id.*, Ex. B).

22 In reply, Hospital Defendants assert that the fact KCHA is a separate legal entity from the 23 County of Kern was readily ascertainable by Plaintiff and, as KCHA never received notice of the

24 claims, Plaintiffs failed to comply with state law. (Doc. 71 at 2). Hospital Defendants argue that 25 they met their job duties in providing medical care and assessments to Decedent and Plaintiffs fail 26 to state sufficient facts upon which relief may be granted as to the claims brought pursuant to state 27 law.

Id. at 2-4. Hospital Defendants do not challenge the authenticity of the attached copies of 1 IV. Discussion 2 A. Exhaustion Under California Government Claims Act 3 1. Governing Authority 4 Under California law, in order to assert a tort claim against a public entity or public 5 employee, a plaintiff must allege compliance with the claims presentation requirements of the 6 California Government Claims Act (“CGCA”).

See Cal. Gov’t Code §§ 945.4, 950.2; Karim- 7 Panahi v. Los Angeles Police Dep’t, 839 F.2d 621, 627 (9th Cir. 1988); Fisher v. Pickens, 225 8 Cal. App. 3d 708, 718 (1990). “Compliance with the claims statute is mandatory, and failure to 9 file a claim is fatal to the cause of action.” Pac. Tel. & Tel. Co. v. Cnty. of Riverside, 106 Cal. 10 App. 3d 183, 188 (1980).

The plaintiff bears the burden of ensuring that a claim was properly 11 presented to the appropriate public entity. Jefferson v. City of Fremont, No. C-12-0926 EMC, 12 2013 WL 1747917, at *9 (N.D. Cal. Apr. 23, 2013) (citing Life v. Cnty. of Los Angeles, 227 Cal. 13 App. 3d 894, 901 (1991)). 14 “Before a civil action may be brought against a public entity [or public employee], a claim 15 must first be presented to the public entity and rejected.” Ocean Servs.

Corp. v. Ventura Port 16 Dist., 15 Cal. App. 4th 1762, 1775 (1993), as modified on denial of reh’g (June 23, 1993); Cal. 17 Gov’t Code § 945.4 (generally barring suit “until a written claim therefor has been presented to 18 the public entity and has been acted upon by the board, or has been deemed to have been rejected 19 by the board”). Claims for “injury to person or to personal property” must be presented within 20 six months after accrual.

See Cal. Gov’t Code § 911.2(a); City of Stockton v. Super. Ct., 42 21 Cal.4th 730, 738 (2007). A claimant who misses the six-month limitations deadline may file a 22 written application with the public entity for leave to present the late claim within one year of the 23 date of accrual of the cause of action, stating the reason for the delay. Cal. Gov’t Code § 911.4.

24 The claimant has six months after a denial of the application to file a petition in the Superior 25 Court for an order relieving the claimant of section 945.4. See Cal. Gov’t Code § 946.6. 26 2. Analysis 27 Here, California state law plainly establishes KCHA as a separate legal entity from the 1 supervisors may establish by ordinance the Kern County Hospital Authority, which shall be a public 2 agency that is a local unit of government separate and apart from the county and any other public 3 entity for all purposes ...”).

Plaintiffs do not assert that they presented their claims, pursuant to 4 CGCA, to the KCHA. Instead, they state that they presented their claims to the County of Kern, 5 and in support thereof,

attach to their opposition brief copies of those claims and the subsequent 6 rejection notices. See (Doc. 70-2, Exs. A, B).

The SAC refers to the claims presented to the County 7 of Kern and the Hospital Defendants do not contest the authenticity of the copies attached to 8 Plaintiffs' opposition. See (Doc. 55 ¶ 79; Doc. 71). Thus, the Court will treat the claims and 9 rejection notices attached as exhibits to Plaintiffs' opposition as part of the complaint and assume 10 their contents to be true for purposes of ruling on Hospital Defendants' motion.

See Hamilton, 746 11 F. Supp.2d at 1168. 12 "The claim presentation requirements of the [CGCA] constitute an element of any cause of 13 action that is subject to [the CGCA]." Franklin v. City of Kingsburg, No. 1:18-CV-0824 AWI 14 SKO, 2023 WL 2976285, at *3 (E.D. Cal. Apr. 17, 2023) (citing California-Am. Water Co. v. 15 Marina Coast Water Dist., 86 Cal. App.

5th 1272, 1287 (2022)), reconsideration denied, No. 1:18- 16 CV-00824-SKO, 2024 WL 3202424 (E.D. Cal. June 26, 2024); see DiCampli-Mintz v. Cnty. of 17 Santa Clara, 55 Cal.4th 983, 990 (2012) ("The filing of a claim is a condition precedent to the 18 maintenance of any cause of action against the public entity and is therefore an element that a 19 plaintiff is required to prove in order to prevail.") (citation and quotation omitted; emphasis in 20 original).

21 The California Supreme Court's decision in DiCampli-Mintz is instructive. There, the 22 plaintiff was injured during a surgery performed at a hospital owned by the county. Plaintiff's 23 counsel sent a letter to the hospital's risk management department, and did not include any request 24 for it to be forwarded to any of the statutorily-designated recipients set forth in the CGCA.

An 25 employee of the risk management department spoke to plaintiff's counsel, acknowledged receipt 26 of the letter, discussed its content, but did not mention the failure to deliver the letter to the 27 appropriate statutory recipient.

The plaintiff argued that she had substantially complied with the 1 CGCA by sending the letter, which was received by the risk management department. See 2 DiCampli-Mintz, 55 Cal.4th at 987-989. 3 The California Supreme Court rejected this substantial compliance argument, explaining 4 that the plain language of the CGCA required presentation to one of the statutorily-designated 5 recipients or actual receipt by a proper recipient.

Id. at 992. The Court rejected the lower court's 6 holding that the CGCA could be satisfied by a claimant serving a party who has a duty to notify 7 one of the statutorily-designated recipients, holding that "by focusing on the duty of a public 8 employee in receipt of a claim to forward the claim to the proper agency, [the lower court] 9 inappropriately shifts responsibility for filing a claim with the proper official or body from the 10 claimant to the public entity." Id. at 996.

11 The California Supreme Court held that, even if the public entity in question “has actual 12 knowledge of facts that might support a claim, the claims statutes still must be satisfied.” Id. at 13 990 (citation omitted). “Thus, after DiCampli–Mintz, either there must be strict compliance with § 14 915(a) or the only way to ‘substantially comply’ with § 915(a) is if there is actual receipt of the 15 misdirected claim by one of the statutorily designated recipients (i.e., § 915(e)).” Jefferson, 2013 16 WL 1747917, at *9.

17 It is clear, and Plaintiffs concede, that they presented a claim to the County of Kern but did 18 not present any claim to the KCHA pursuant to the CGCA. See (Doc. 70). Plaintiffs advance three 19 arguments in opposing Hospital Defendants’ motion regarding failure to comply with the CGCA: 20 1) even if the KCHA is a separate legal entity from the County of Kern, the “close administrative 21 and operational relationship” between them “means that the County’s receipt of the claim 22 necessarily conveyed notice to KCHA” (id. at 13); 2) equitable estoppel relieves Plaintiffs from the 23 requirements of the CGCA because the County of Kern never issued a notice of non-compliance 24 nor notified Plaintiffs of the claim being “procedurally defective for failure to name the correct 25 public entity or employee” (id. at 14-15); and 3) Plaintiffs did not discover, nor reasonably could 26 have discovered, “that KCHA was a separate entity and that a tort claim had to be filed separately 27 against KCHA until KCHA raised this issue” (id. at 15-16).

1 and operational relationship” between the County of Kern and the KCHA resulted in notice to the 2 KCHA via notice upon the County of Kern. Indeed, state law establishes the KCHA as a separate 3 legal entity. See Cal. Health & Safety Code § 101853.

As explained by the California Supreme 4 Court in DiCampli-Mintz, there can be no “substantial compliance” upon the KCHA via satisfactory 5 service of a claim upon the County of Kern; the statutory requirements of the CGCA must still be 6 satisfied and that requires satisfactory delivery of a claim to the statutorily-designated recipients at 7 the KCHA. DiCampli-Mintz, 55 Cal.4th at 990.

Further, as state law expressly establishes the 8 KCHA as a separate legal entity from the County of Kern, Plaintiffs’ argument that they could not 9 reasonably discover that fact is unavailing given its existence is set forth set forth in the California 10 Health and Safety Code, section 101853. 11 Second, the holding in DiCampli-Mintz materially limits the availability of equitable 12 estoppel under the circumstances here and Plaintiffs’ citations to California state authority in 13 support of their equitable estoppel argument are not persuasive.

If “a claim as presented fails to 14 comply substantially with the Act’s requirements, Cal. Gov. Code § 910.8, it triggers various 15 requirements.” *Soublet v. Cnty. of Alameda*, No. 18-CV-03738-JST, 2018 WL 6268872, at *3 16 (N.D. Cal. Nov. 29, 2018) (quotations omitted) (citing *Phillips v. Desert Hosp. Dist.*, 49 Cal.3d 17 699, 707 (1989)). “Where a document qualifies as ‘a claim as presented,’ the public entity must 18 give the claimant notice of the defect, see Cal. Gov.

Code § 910.8, or else waive that defense, see 19 *id.* § 911.” *Id.* The aforementioned California state statutes, therefore, do not establish that the 20 County of Kern was required to notify Plaintiffs of a defect or noncompliance regarding their failure 21 to properly deliver a claim to the KCHA, only that the County must have given notice of a defect 22 if Plaintiffs’ claim, as properly presented to the County, failed to substantially comply with 23 applicable requirements.

See Jefferson, 2013 WL 1747917, at *9 (“The problem here is that 24 DiCampli–Mintz puts limitations on any estoppel argument ... in DiCampli–Mintz, an employee 25 from the County’s risk management department responded to the letter from the plaintiff’s attorney, 26 engaged in a substantive discussion with the attorney, but never said anything about the claim being 27 presented to the wrong party.

In spite of these facts, the California Supreme Court still held in the 1 Additionally, the Board of Supervisors of the County of Kern and the Board of Governors 2 of the KCHA are separate entities with different members² and, thus, any argument of substantial 3 compliance based on any such facts is unavailing. See DiCampli-Mintz, 55 Cal. 4th at 997 (“These 4 cases hold that when the governing body of one public entity is also the governing body of another 5 public entity, a claim against the subordinate entity that is delivered to the governing body 6 constitutes substantial compliance with the claims statute.

That is not the case here.”). 7 Plaintiffs do not cite to any authority for the proposition that the substantial compliance 8 doctrine applies differently in the instant action than as set forth by the California Supreme Court 9 in DiCampli-Mintz. Plaintiffs concede that they did not deliver their claim to KCHA as required 10 by California state law. See (Doc.

70 at 13-15). As such, Plaintiffs fail to plead a necessary element 11 of their claims brought pursuant to state law. Thus, the Court will grant Hospital Defendants’ 12 motion as to the sixth, seventh, eighth, and ninth causes of action in the SAC. See Frazier v. City 13 of Fresno, No. 1:20-CV-01069-ADA-SAB, 2023 WL 4108322, at *37 (E.D. Cal. June 21, 2023) 14 (collecting cases and noting CGCA applies to Cal. Civ.

Code § 52.1, insofar as the claim seeks 15 damages); see also Hicks v. Hamkar, No. 2:13-CV-01687-KJM-DB, 2016 WL 5847011, at *8 (E.D. 16 Cal. Oct. 6, 2016) (“To file a claim under section 845.6, a plaintiff must first exhaust the 17 administrative remedies established in the Government Claims Act.”), report and recommendation 18 adopted, No. 13-CV-01687-KJM-DB, 2017 WL 3105643 (E.D.

Cal. July 21, 2017), clarified on 19 denial of reconsideration, No. 2:13-CV-01687-KJM-DB PS, 2017 WL 3537254 (E.D. Cal. Aug. 20 17, 2017). 21 As the sixth, seventh, eighth, and ninth causes of action against the Hospital Defendants 22 will be dismissed, the Court will not reach Hospital

Defendants' alternative arguments for dismissal 23 of said claims on the grounds that they are inadequately pleaded.

See *Martinez v. Cnty. of Riverside*, 24 No. EDCV 22-2144 JGB (SHKx), 2023 WL 4680791, at *3 (C.D. Cal. June 8, 2023) ("Because 25 failure to allege compliance with the California Government Claims Act is fatal, the Court 26 2 Compare Kern County Board of Supervisors, <https://www.kerncounty.com/government/board-of-supervisors> (last visited September 10, 2025), with Kern County Hospital Authority Board of Governors, <https://www.kernmedical.com/about-us/hospital-authority/board-of-governors/> (last visited September 10, 1 DISMISSES Plaintiffs' state law claims for failure to comply with California procedures ... 2 Furthermore, because the Court dismisses Plaintiffs' state law claims, the Court need not reach the 3 County's other contentions against those claims.") (citation and quotation omitted).3 4 B. Federal Claims Against Individual Defendants 5 1.

Governing Authority 6 To state a claim under section 1983, a plaintiff is required to show that (1) each defendant 7 acted under color of state law and (2) each defendant deprived him of rights secured by the 8 Constitution or federal law. *Benavidez v. Cnty. of San Diego*, 993 F.3d 1134, 1144 (9th Cir. 2021) 9 (citing *Long v. Cnty. of Los Angeles*, 442 F.3d 1178, 1185 (9th Cir.

2006); *West v. Atkins*, 487 U.S. 10 42, 48 (1988)). This requires the plaintiff to demonstrate that each defendant personally 11 participated in the deprivation of his rights. *Ewing v. City of Stockton*, 588 F.3d 1218, 1235 (9th 12 Cir. 2009); *Preschooler II v. Clark County Sch. Bd. of Trs.*, 479 F.3d 1175, 1183 (9th Cir. 2007). 13 The Fourteenth Amendment protects the rights of pretrial detainees.

Bell v. Wolfish, 441 14 U.S. 520, 545 (1979); see *Sandoval v. Cnty. of San Diego*, 985 F.3d 657, 667 (9th Cir. 2021) (noting 15 that pretrial detainees' "rights arise under the Fourteenth Amendment's Due Process Clause"). 16 Relevant here, the elements of a pretrial detainee's Fourteenth Amendment failure-to-protect claim 17 against an individual defendant are: 18 (1) The defendant made an intentional decision with respect to the conditions under which the plaintiff was confined; (2) those 19 conditions put the plaintiff at substantial risk of suffering serious harm; (3) the defendant did not take reasonable available measures 20 to abate that risk, even though a reasonable officer in the circumstances would have appreciated the high degree of risk 21 involved—making the consequences of the defendant's conduct obvious; and (4) by not taking such measures, the defendant caused 22 the plaintiff's injuries.

With respect to the third element, the defendant's conduct must be objectively unreasonable, a test that will 23 necessarily turn[] on the facts and circumstances of each particular case. 24 25 3 While the Court acknowledges and does not take lightly the significant implications here for Plaintiffs' failure to properly comply with the claims presentation requirements under the CGCA,

for the 26 reasons set forth above, Plaintiffs’ arguments that dismissing their state law claims “would subvert the very policy underlying the [CGCA]” (Doc.

70 at 13) are without merit and contrary to DiCampi-Mintz. See 27 *Hawkins v. City of Barstow*, No. EDCV 20-557-MWF-SP, 2020 WL 6036322, at *3 (C.D. Cal. Sept. 15, 2020) (“This result [dismissal of claims] is undoubtedly harsh, but the Court’s hands are tied by the 1 *Castro v. Cnty. of Los Angeles*, 833 F.3d 1060, 1071 (9th Cir. 2016) (alteration in original; footnote, 2 citation, and internal quotation marks omitted); see *Gordon v. Cnty. of Orange*, 888 F.3d 1118, 3 1125 (9th Cir.

2018). 4 The Supreme Court has explained that there is “no significant distinction between claims 5 alleging inadequate medical care and those alleging inadequate ‘conditions of confinement.’ 6 Indeed, the medical care a prisoner receives is just as much a ‘condition’ of his confinement as... 7 the protection he is afforded against other inmates.” *Wilson v. Seiter*, 501 U.S. 294, 303 (1991); 8 see also *Gordon*, 888 F.3d at 1124 (“we have long analyzed claims that government officials failed 9 to address pretrial detainees’ medical needs using the same standard as cases alleging that officials 10 failed to protect pretrial detainees in some other way”).

11 Thus, to bring a pretrial detainee’s failure to protect or inadequate medical care claim under 12 the Fourteenth Amendment, a plaintiff must establish the same four factors as noted above. 13 *Gordon*, 888 F.3d at 1125; *Castro*, 833 F.3d at 1071.

In contrast to the knowing and purposeful 14 state of mind in the first element, the remaining elements require an objective standard. See *Castro*, 15 833 F.3d at 1070-71. As noted supra, the third element must be viewed on each case’s particular 16 facts and circumstances, and the plaintiff must prove the defendant acted with “more than 17 negligence but less than subjective intent – something akin to reckless disregard.” *Sandoval*, 985 18 F.3d at 669 (quoting *Castro*, 833 F.3d at 1071).

19 The Fourteenth Amendment also protects liberty interests in the companionship between 20 parents and children. “Parents and children may assert Fourteenth Amendment substantive due 21 process claims if they are deprived of their liberty interest in the companionship and society of their 22 child or parent through official conduct.” *Lemire v. Cal. Dep’t. of Corr. & Rehab.*, 726 F.3d 1062, 23 1075 (9th Cir.

2013). “Only official conduct that shocks the conscience is cognizable as a due 24 process violation ... A prison official’s deliberately indifferent conduct will generally ‘shock the 25 conscience’ so as long as the prison official had time to deliberate before acting or failing to act in 26 a deliberately indifferent manner.” *Id.* (citations and quotations omitted).

27 /// 1 2. Analysis 2 Pursuant to section 1983, Plaintiffs assert as their first, second, and third causes of action 3 violations of the Fourteenth Amendment for failure to protect from harm, failure

to provide medical care, and deprivation of the right to a familial relationship with decedent, respectively. (Doc. 55 at 5 32-43).

Here, because Decedent was a pretrial detainee, his rights derive from the due process clause of the Fourteenth Amendment. See *Bell*, 441 U.S. at 545. “The duty to protect detainees from suicide is grounded in the substantive liberty interest to adequate medical care.” *Atayde v. Napa State Hosp.*, 255 F. Supp. 3d 978, 988 (E.D. Cal. 2017). Hospital Defendants argue that Plaintiffs failed to plead sufficient facts regarding what actions or inactions by Hospital Defendants support the assertions of deliberate indifference to Decedent’s medical needs.

(Doc. 65 at 10). Hospital Defendants represent that KCHA nursing staff perform initial intake assessments, distribute medications prescribed by physicians, perform daily suicide assessments, treat minor medical conditions, refer inmates to the hospital or County Behavioral Health, and recommend inmates to be placed on suicide watch. Hospital Defendants further assert that the nursing staff assessed Decedent on a continual basis and made numerous referrals to County Behavioral Health for treatment, and placed Decedent on suicide watch or a safety cell for the majority of his time at the Lerdo Pre-Trial Facility.

Hospital Defendants also assert that it is not the job of nursing staff “to provide mental health care or medical treatment required by a trained medical doctor.” *Id.* at 12. Hospital Defendants argue that “KCHA nursing staff did their job” and “[n]owhere in the SAC does it allege that the KCHA nursing staff failed to provide medical care to [Decedent].” *Id.* at 13.

Plaintiffs argue that “superficial or perfunctory assessments are not a defense to deliberate indifference.” (Doc. 70 at 17; emphasis omitted) (citing *Colwell v. Bannister*, 763 F.3d 1060, 24 1068–1069 (9th Cir. 2014)). Plaintiffs note that the SAC asserts that Hospital Defendants “continually cycled [Decedent] through inadequate and ineffective interventions, including placing him on suicide watch only to remove him prematurely.” Plaintiffs contend that deliberate indifference “does not turn on whether staff had the final authority to provide mental health 1 reasonable steps to mitigate it.” *Id.* (emphasis omitted).

Plaintiffs assert that they have sufficiently 2 pled Hospital Defendants, charged with his care, “observed clear signs of [Decedent]’s mental 3 deterioration and instead of taking any meaningful action,” allowed Decedent “to languish, 4 untreated in custody until his death on May 3, 2023.” *Id.* (emphasis omitted). 5 As a preliminary matter, in addition to section 1983, Hospital Defendants mention in their 6 motion 42 U.S.C. § 12101, 28 U.S.C. § 2201, and 29 U.S.C. § 701 (presumably, the ADA and 7 Rehabilitation Act causes of action set forth in Plaintiffs’ 11th and 12th causes of action).

(Doc. 8 65 at 10). However, Hospital Defendants advance no arguments in support of dismissal of these 9 claims and, further, the SAC does not purport to include Hospital Defendants in these two

causes 10 of action. Thus, the Court will not address such claims. 11 Here, Plaintiffs allege in the SAC that individual Hospital Defendants were aware of 12 Decedent's serious medical needs, including through observation of Decedent's harmful and erratic 13 behaviors, and though they took some actions responsive to Decedent's serious medical needs, 14 those actions were inadequate and coupled with identified inaction.

For instance, Plaintiffs allege 15 that, on one occasion, while Decedent was engaged in self-harming conduct, he asserted he did not 16 want to be placed on suicide watch and custody and medical staff "left him to his own devices." 17 (Doc. 55 ¶ 53).

The SAC also alleges Decedent repeatedly refused administration of his 18 psychotropic medications – approximately 24 times over a seven-week period – and custody and 19 medical staff failed to act. Id. ¶¶ 55, 65-68. Plaintiffs also connect each individual Hospital 20 Defendant to interactions with Decedent. Id. ¶¶ 50, 54, 61, 66, 67, 68. 21 Contrary to Hospital Defendants' contentions, individuals need not be physicians nor tasked 22 with providing mental healthcare to be subject to the Fourteenth Amendment in regards to 23 deliberate indifference towards pretrial detainees.

See *Clouthier v. Cnty. of Contra Costa*, 591 F.3d 24 1232, 1242 (9th Cir. 2010) (explaining that the "deliberate indifference" standard applies to claims 25 that correction facility officials failed to address the medical needs of pretrial detainees"), overruled 26 on other grounds by *Castro*, 833 F.3d at 1060; see also *Est. of Prasad ex rel. Prasad v. Cnty. of 27 Sutter*, 958 F.Supp.2d 1101, 1112 (E.D.

Cal. 2013) (noting deliberate indifference violates 1 Fourteenth Amendment rights of pretrial detainees "whether the indifference is manifested by 2 doctors, guards, or other personnel"). 3 Plaintiffs plead in the SAC that Defendant Flaminiano assessed Decedent on March 23, 4 2023, confirmed that he verbalized suicidal thoughts, and asked whether he had a "plan," in 5 response to which Decedent shrugged his shoulders.

Decedent was then transferred back to Lerdo 6 Justice Facility on suicide watch. (Doc. 55 ¶ 50). Defendant Li-Shapiro is alleged to have placed 7 Decedent on suicide watch, due to Decedent being aggressive. Defendant Li-Shapiro is also alleged 8 to have observed Decedent's "bizarre behaviors," banging his head intermittently on the window 9 in his cell while completing a suicide risk assessment (id. ¶ 61), and to have completed multiple 10 suicide risk assessments documenting Decedent's continuous refusal to take his psychiatric 11 medications (id. ¶ 67).

Defendant De La Cruz is asserted to have completed multiple suicide risk 12 assessments, documented Decedent's "continuous refusals" to take his medication, and to have 13 taken no further action. Id. ¶ 66. Defendant De Guzman is asserted to have attempted to administer 14 Decedent his medication, which he refused to take, and to have taken no further action.

Id. ¶ 68. 15 Further, taken in the light most favorable to Plaintiffs, Hospital Defendants allegedly had 16 access to Decedent’s prior records, containing facts concerning his past behavior, criminal charges 17 “indicative of impulse control,” history of mental disorders, and treatment with psychiatric 18 medications, and such facts indicated “significant elevated risk of suicide in a jail environment 19 warranting a suicide prevention plan with heightened levels of supervision and monitoring and the 20 removal of any suicide hazards from [Decedent]’s housing unit.” Id. ¶¶ 41, 45, 72.

Plaintiffs allege 21 that Hospital Defendants ignored all such signs of elevated suicide risk when deciding on May 1, 22 2023, to take Decedent off of suicide watch “in a setting with no direct observation capabilities, 23 with no suicide precautions and full access to a litany of items which could be used for self-harm.” 24 Id. ¶ 73. Plaintiffs also allege that Hospital Defendants failed to take reasonable measures to abate 25 or reduce the risks of Decedent suffering serious harm.

Id. at 33-34. 26 The decision of another judge of this Court in the case of *Deloney v. County of Fresno*⁴ is 27 instructive. In *Deloney*, defendant medical and nursing care providers filed a motion to dismiss 1 plaintiff’s complaint bringing claims pursuant to section 1983 for the death by suicide of her son 2 in pretrial custody. Plaintiff asserted in her complaint that defendants knew of decedent’s 3 heightened suicide risk and decedent had been suicidal on multiple occasions.

Defendants 4 transferred decedent numerous times between segregation lockdown housing and a safety cell, but 5 did not send him to a mental health facility or employ any other abatement techniques. After a 6 suicide attempt using a bedsheet, defendants recommended decedent be transferred to an isolation 7 cell and restricted to the use of safety cell garments and blankets, but took no other steps.

Id. at *1- 8 2. 9 After a mental health evaluation, defendants recommended decedent be transferred back to 10 lockdown housing, lifted his safety restrictions, and reduced his visual monitoring to once per hour. 11 Decedent attempted suicide a few days later. Defendants did not subsequently evaluate decedent 12 or attempt to intervene, and no housing adjustments or other precautions were taken.

A few days 13 after the suicide attempt, and while off of suicide watch, decedent hanged himself in his cell. Id. 14 In denying the motion, the court noted that “the SAC’s additional allegations appear to put forth 15 the following theory of liability – because these [medical care] [d]efendants did not take any further 16 steps besides the safety housing transfer, such as sending Mayberry to a mental health facility, 17 evaluating Mayberry for medication needs, or providing Mayberry with psycho-education materials 18 for coping strategies, they were deliberately indifferent to Mayberry’s serious medical needs since 19 they were aware of or should have been aware of his suicidal ideations and should have done more 20 to address the risk or followed up after the housing transfer.” Id. at *7.

21 The court found that the SAC sufficiently alleged a plausible claim under the Fourteenth 22 Amendment pursuant to section 1983 “for not taking any additional steps besides placing him in 23 safety housing after allegedly knowing Mayberry had reported hearing voices in his head to kill 24 himself ... While it is not clear whether a safety housing transfer was sufficient to address 25 Mayberry’s serious medical needs, [p]laintiff has alleged enough for a plausible deliberate 26 indifference claim. ‘At this stage in the pleadings, the Court will not engage in an extensive analysis 27 of the adequacy of the mental health system in place at the jail ... [T]he Court may infer from the 1 may bear some responsibility for the failure to provide care which led to [d]ecedents’ death.’” Id. 2 (quoting *Est. of Jessie P. Contreras v. Cnty. of Glenn*, No. 2:09-CV-2468-JAM-EFB, 2010 WL 3 4983419, at *4 (E.D.

Cal. Dec. 2, 2010)). 4 Here, in the SAC, Plaintiff asserts that individual Hospital Defendants were aware of 5 Decedent’s heightened risk of self-harm, both from access to prior records and from direct 6 observation and experience, Decedent was put at serious risk therefrom, and Defendants did not 7 take reasonable measures to abate said risk, resulting in Decedent’s suicide.

In short, Plaintiffs 8 allege a two-month period of Decedent’s continuous, unabated, and extensive manifestation of 9 suicidal behavior while in the custody and care and under the observation of Defendants (including 10 Hospital Defendants). At the pleading stage, and making all reasonable inferences in favor of 11 Plaintiffs, the Court concludes Plaintiffs have adequately alleged that individual Hospital 12 Defendants were aware the Decedent was in substantial danger of killing himself and at an acute 13 risk of harm.

Further, while Hospital Defendants took certain actions responsive to Decedent’s 14 condition, it is alleged that they failed to take other reasonable measures and that the sum total of 15 their conduct (and inaction) amounts to deliberate indifference. Plaintiffs have, thus, sufficiently 16 pled failure to protect from harm and failure to provide medical care under the Fourteenth 17 Amendment, pursuant to section 1983.

See id. at *8 (“Plaintiff has alleged that these Defendants 18 were aware of Mayberry’s high risk of suicide ... that indicated steps needed to be taken to reduce 19 his suicidal ideations and further alleged that Mayberry had told [medical] staff that he was hearing 20 voices telling him to kill himself. While the safety housing transfers were a step to abate the risk 21 of suicide, more may have been reasonably necessary to abate the risk.

A complete failure to treat 22 the prisoner is not a prerequisite.”). 23 Hospital Defendants maintain in general that the actions they are alleged to have taken in 24 response to Decedent’s behavior are sufficiently reasonable to avoid section 1983 liability given 25 that they are not mental health care providers, are not charged with monitoring and providing 26 mental health care, and performed their assigned duties reasonably.

(Doc. 65 at 10-13). But the 27 individual Hospital Defendants' purported limited roles and responsibilities as proffered in their 1 were "objectively unreasonable" necessarily is a fact-intensive inquiry (Castro, 833 F.3d at 1071) 2 that is not suitable for resolution on a motion to dismiss given the facts alleged in the SAC. 3 Regarding Plaintiffs' claim of deprivation of right to a familial relationship, as noted supra, 4 "[a] prison official's deliberately indifferent conduct will generally 'shock the conscience' so as 5 long as the prison official had time to deliberate before acting or failing to act in a deliberately 6 indifferent manner." Lemire, 726 F.3d at 1075.

Hospital Defendants advance no other arguments, 7 aside from those recounted above, for dismissal of this claim. As the Court has found Plaintiffs 8 sufficiently state a claim regarding individual Hospital Defendants' failure to protect and to provide 9 medical care, and the facts as pled in the SAC plausibly demonstrate that Hospital Defendants could 10 have had time to actually deliberate, Plaintiffs assertions are sufficient to survive a motion to 11 dismiss.

See *Palacios v. Cnty. of San Diego*, No. 20-CV-450-MMA (DEB), 2020 WL 4201686, at 12 *11 (S.D. Cal. July 22, 2020) ("... the Court has already found that Plaintiff pleads sufficient facts 13 to show a deliberate indifference to Ortiz's serious medical needs under the Fourteenth Amendment 14 ... These facts leading up to Ortiz's suicide plausibly demonstrate that [personnel] could have had 15 time to actually deliberate.

Therefore, the Court finds that Plaintiff pleads sufficient facts to sustain 16 her substantive due process claim under the Fourteenth Amendment for the purpose of surviving a 17 motion to dismiss."); see also *Est. of Prasad*, 958 F. Supp. at 1116 ("A prison official's deliberate 18 indifference to a prisoner's serious medical needs shocks the conscience and states a claim under 19 the substantive due process clause.

Here, since Plaintiffs allege deliberate indifference by the Sutter 20 Defendants, and since the Sutter Defendants advance no other arguments for dismissal, Plaintiffs 21 have stated a substantive due process claim against the Sutter Defendants."). 22 Lastly, Hospital Defendants offer only conclusory arguments that Plaintiffs have not stated 23 sufficient facts to state a claim against KCHA itself as employer of the individual Hospital 24 Defendants.

(Doc. 65 at 10, 13). Aside from these perfunctory assertions, however, Hospital 25 Defendants advance no particular arguments concerning the claims against KCHA in the SAC. As 26 the motion does not advance any arguments relating to Monell claims against KCHA, the Court 27 will not address said claims, as asserted in the fourth cause of action. 1 Thus, the Court will deny the Hospital Defendants' motion as to the first, second, third, and 2 fourth causes of action in the SAC.

3 C. Leave to Amend 4 Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, leave to amend "should be 5 freely granted when justice so requires" as the purpose of the Rule is "to

facilitate decision on the 6 merits, rather than on the pleadings or technicalities.” *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000).

However, courts may, in their discretion, choose to decline leave to amend due to 8 futility, bad faith, undue delay, prejudice to the opposing parties, dilatory motive or conduct, or a 9 repeated failure to cure deficiencies by amendments. See *Carvalho v. Equifax Info. Servs., LLC*, 10 629 F.3d 876, 892–893 (9th Cir. 2010). A court’s discretion in denying leave to amend is 11 particularly broad after plaintiff has already been afforded an opportunity to amend the complaint.

12 See *Rich v. Shrader*, 823 F.3d 1205, 1209 (9th Cir. 2016). 13 Here, Plaintiffs request leave to amend any claim dismissed. (Doc. 70 at 21). Although it 14 is unlikely Plaintiffs could remedy the CGCA deficiencies noted above, given that leave to amend 15 is to be liberally granted, the Court will permit Plaintiffs to amend the sixth, seventh, eighth, and 16 ninth causes of action only to the extent they are able in good faith to cure the defects noted above.

17 V. Conclusion and Order 18 Based on the foregoing, IT IS HEREBY ORDERED that: 19 1. Hospital Defendants’ motion to dismiss (Doc. 65) is GRANTED in part: 20 a. The motion is GRANTED, with leave to amend, as to the sixth, seventh, eighth, 21 and ninth causes of action against Hospital Defendants; 22 b. The motion is DENIED as to the first, second, third, fourth, and tenth causes of 23 action; and 24 25 Remainder of This Page Intentionally Left Blank 26 27 1 2.

Hospital Defendants are granted leave to amend and shall file any third amended 2 complaint within 14 days of entry of this order. 3 | IT IS SO ORDERED. 4 Dated: _ September 18, 2025 | Ww Vv Kr 5 UNITED STATES MAGISTRATE JUDGE 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 42