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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 ANA PATRICIA FERNANDEZ, an
11 individual,

12 Plaintiff,

13 v.

14 LOS ANGELES COUNTY, THE LOS
15 ANGELES COUNTY SHERIFF'S
16 DEPARTMENT, WYATT WALDRON,
17 An Individual, JOHN ROTH, An
18 Individual, SUSAN O'LEARY BROWN,
19 An Individual, ALEX VILLANUEVA, In
20 His Official Capacity As Sheriff Of Los
21 Angeles County; And DOES 1-10,

22 Defendants.

Case No.: 2:20-cv-09876-DMG (PD)

**[PROPOSED] ORDER DENYING
DEFENDANTS WYATT WALDRON
AND JOHN ROTH'S MOTION TO
DISMISS PLAINTIFF'S COMPLAINT**

23 Defendants Wyatt Waldron and John Roth's Motion to Dismiss Plaintiff's
24 Complaint came on for hearing before this Court on January 29, 2021. Having reviewed
25 Defendant's motion, the parties' memoranda, and all papers on file, and having heard the
26 argument of counsel, the Court hereby finds the following:

27 1. Plaintiff has sufficiently pleaded that her firearms were left in the care of
28 Defendants Wyatt Waldron and John Roth ("the Officer Defendants") as the officers
responsible for executing the warrant and seizing Plaintiff's firearms and that the property
damage occurred during that bailment.

2. Qualified immunity does not shield the Officer Defendants because the Fourth Amendment rights at issue here are clearly established rights. “The doctrine of qualified immunity protects government officials ‘from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.’ ” *Pearson v. Callahan*, 555 U.S. 223, 231 (2009) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). Here, the Officer Defendants knew or should have known that allowing Plaintiff’s property to be significantly and unjustifiably damaged while within their custody violated Plaintiffs’ Fourth Amendment rights under the United States Constitution. *Liston v. Cty. of Riverside*, 120 F.3d 965, 979 (9th Cir. 1997).

3. Lastly, because Plaintiff has sufficiently pleaded her constitutional claims, this court has supplemental jurisdiction over her state-law claims and can issue declaratory relief.

THEREFORE, IT IS HEREBY ORDERED that Defendants Wyatt Waldron and John Roth’s Motion to Dismiss Plaintiff’s Complaint is DENIED in its entirety. Defendants shall file a responsive pleading within seven (7) days of this Order.

IT IS SO ORDERED.

Dated: _____

HON. DOLLY M. GEE
United States District Court Judge