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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, RICHARD LEON, an
22 individual, MURRAY JACOB, an
23 individual, DAVID ROACH, an
24 individual, SALVADOR MORENO IV,
25 an individual, JASON AMES, an
26 individual, KYLE DINGMAN, an
27 individual, NICHOLAS SAYLOR, an
28 individual, and DOES 8-10,

Defendants.

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

**[PROPOSED] ORDER DENYING
COUNTY EMPLOYEE
DEFENDANTS' MOTION TO
DISMISS PLAINTIFF'S FIRST
AMENDED COMPLAINT**

1 Defendants Waldron, Roth, Ames, Dingman, Jacob, Leon, Moreno, O’Leary
2 Brown, Roach, Roth, and Saylor’s (“the Employee Defendants”) Motion to Dismiss
3 Plaintiff’s First Amended Complaint came on for hearing before this Court on January 14,
4 2022. Having reviewed Defendants’ motion, the parties’ memoranda, and all papers on
5 file, and having heard the argument of counsel, the Court hereby finds the following:

6 1. Plaintiff has sufficiently pleaded that her firearms were left in the care of the
7 Employee Defendants during the initial seizure and in their roles as property custodians
8 and that the property damage occurred during that bailment.

9 2. Qualified immunity does not shield the Employee Defendants because they
10 were acting in a purely ministerial duty in their role as property custodians for the Los
11 Angeles Sheriff’s Department (LASD) and because LASD maintains written policies that
12 they should have followed for storing and handling firearms in their custody. The
13 Supreme Court’s doctrine “grants qualified immunity to officials in the performance of
14 discretionary, but not ministerial, functions.” *Davis v. Scherer*, 468 U.S. 183, 196 n.14
15 (1984).

16 What’s more, the Fourth Amendment rights at issue here are clearly established.
17 “The doctrine of qualified immunity protects government officials ‘from liability for civil
18 damages insofar as their conduct does not violate clearly established statutory or
19 constitutional rights of which a reasonable person would have known.’ ” *Pearson v.*
20 *Callahan*, 555 U.S. 223, 231 (2009) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818
21 (1982)). Here, the Employee Defendants knew or should have known that allowing
22 Plaintiff’s property to be significantly damaged and withholding the release of the
23 firearms without justification violated the Fourth Amendment.

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

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1 THEREFORE, IT IS HEREBY ORDERED that the Employee Defendants' Motion
2 to Dismiss Plaintiff's First Amended Complaint is DENIED in its entirety. Defendant
3 shall file a responsive pleading within seven (7) days of this Order.

4 **IT IS SO ORDERED.**

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6 Dated: _____

7 HON. DOLLY M. GEE
8 United States District Court Judge
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