

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Johnny Wheatcroft, et al.,

10 Plaintiffs,

11 v.

12 City of Glendale, et al.,

13 Defendants.
14

No. CV-18-02347-PHX-MTL

ORDER

NOT FOR PUBLICATION

15 The matter before the Court is Defendants' Motion in Limine No. 14. Re: Minor
16 Plaintiffs' State Law Claims. (Doc. 348.) Under Arizona common law, a law enforcement
17 officer is entitled to qualified immunity for exercising discretionary functions.
18 *Chamberlain v. Mathis*, 151 Ariz. 551, 557 (1986); *Spooner v. City of Phoenix*, 246 Ariz.
19 119, 124-25 (Ct. App. 2018). "Thus, an officer performing a discretionary act within the
20 scope of his public duties may be liable only if grossly negligent." *Merritt v. Arizona*, 425
21 F. Supp. 3d 1201, 1231 (D. Ariz. 2019); *accord Krause v. County of Mohave*, CV-17-
22 08185-PCT-SMB, 2020 WL 2541728, at *16 (D. Ariz. May 19, 2020).

23 The Court finds that, during their encounter with Plaintiffs and their on-scene
24 investigation of Mr. Wheatcroft, the defendant police officers conduct involved the
25 exercise of discretion. Plaintiffs did not clearly plead that the defendant police officers
26 acted with gross negligence in violation of the minor Plaintiffs' state law claims. At the
27 summary judgment stage, the Court concluded that the Plaintiffs appear to have
28 "abandon[ed] any gross negligence cause of action they might have." (Doc. 294 at 33.) The

1 Court further found that Plaintiff did not offer any evidence that would lead a reasonable
2 juror to find gross negligence. (*Id.*)

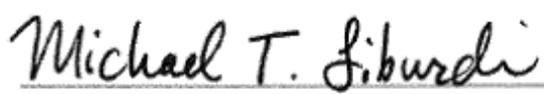
3 Accordingly,

4 **IT IS ORDERED** that Defendants’ Motion in Limine No. 14 Re: Minor Plaintiffs’
5 State Law Claims (Doc. 348) is **granted**.

6 **IT IS FURTHER ORDERED** precluding Plaintiffs from arguing at trial that the
7 City of Glendale has liability for the minor Plaintiffs’ state law claims based on the conduct
8 of Officers Schneider and Lindsay.

9 Dated this 17th day of September, 2022.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



Michael T. Liburdi
United States District Judge