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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ALEX ROSAS and JONATHAN
GOODWIN, on behalf of
themselves and of those
similarly situated,

Plaintiff,

v.

LEROY BACA, Sheriff of Los
Angeles County Jails; PAUL
TANAKA, Undersheriff, Los
Angeles Sheriff's
Department; CECIL RHAMBO,
Assistant Sheriff, Los
Angeles Sheriff's Department
and DENNIS BURNS, Chief of
Custody Operations Division,
Los Angeles Sheriff's
Department,

Defendants.

) Case No. CV 12-00428 DDP (SHx)

) **ORDER GRANTING IN PART AND**
) **DENYING IN PART DEFENDANT'S**
) **MOTION TO DISMISS PLAINTIFFS'**
) **COMPLAINT AND REQUEST TO STRIKE**
) **PORTIONS OF PLAINTIFFS' COMPLAINT**

) [Dkt. No. 19]

Presently before the court is Defendants' Motion to Dismiss
Plaintiffs' Complaint and request to strike portions of the
complaint. Having considered the submissions of the parties, the
court is inclined to grant the motion in part, deny in part, and
adopt the following order.

1 **I. Background**

2 Plaintiffs filed a purported class action complaint alleging
3 that they witnessed, were threatened with, and suffered from
4 violence at the hands of Los Angeles County Sheriff's Department
5 deputies. (Complaint ¶ 3.) Plaintiffs further allege that such
6 acts of violence are reflective of a pattern and practice of
7 deputy-on-inmate violence, of which Defendants are well aware.
8 (Id.) Plaintiffs seek declaratory and injunctive relief against
9 four defendants, each named in their official capacities: 1) Lee
10 Baca, Los Angeles County Sheriff; 2) Paul Tanaka, Undersheriff; 3)
11 Cecil Rhambo, Assistant Sheriff; and 4) Dennis Burns, Chief of the
12 Custody Operations Division.¹ (Id. ¶¶ 16-19.) Defendants now move
13 to dismiss Plaintiffs' Complaint under Federal Rule of Civil
14 Procedure 12(b)(6).

15 **II. Legal Standard**

16 A complaint will survive a motion to dismiss when it contains
17 "sufficient factual matter, accepted as true, to state a claim to
18 relief that is plausible on its face." Ashcroft v. Iqbal, 129 S.
19 Ct. 1937, 1949 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S.
20 544, 570 (2007)). When considering a Rule 12(b)(6) motion, a court
21 must "accept as true all allegations of material fact and must
22 construe those facts in the light most favorable to the plaintiff."
23 Resnick v. Hayes, 213 F.3d 443, 447 (9th Cir. 2000). Although a
24 complaint need not include "detailed factual allegations," it must
25 offer "more than an unadorned, the-defendant-unlawfully-harmed-me

26 _____
27 ¹ Plaintiffs assert that Defendants Tanaka and Burns have been
28 or will be removed from their respective positions, and that their
successors will replace them as defendants in this case. See Fed.
R. Civ. P. 25(d).

1 accusation." Iqbal, 129 S. Ct. at 1949. Conclusory allegations or
2 allegations that are no more than a statement of a legal conclusion
3 "are not entitled to the assumption of truth." Id. at 1950. In
4 other words, a pleading that merely offers "labels and
5 conclusions," a "formulaic recitation of the elements," or "naked
6 assertions" will not be sufficient to state a claim upon which
7 relief can be granted. Id. at 1949 (citations and internal
8 quotation marks omitted).

9 "When there are well-pleaded factual allegations, a court should
10 assume their veracity and then determine whether they plausibly
11 give rise to an entitlement of relief." Id. at 1950. Plaintiffs
12 must allege "plausible grounds to infer" that their claims rise
13 "above the speculative level." Twombly, 550 U.S. at 555-
14 56. "Determining whether a complaint states a plausible claim for
15 relief" is a "context-specific" task, "requiring the reviewing
16 court to draw on its judicial experience and common sense." Iqbal,
17 129 S. Ct. at 1950.

18 **III. Discussion**

19 A. Redundancy

20 Defendants first contend that Plaintiffs' official capacity
21 claims against Defendants Tanaka, Rhambo, and Burns are duplicative
22 of Plaintiffs' official capacity claim against Defendant Baca.
23 (Motion to Dismiss at 1.) Though Plaintiffs have not named the
24 County of Los Angeles as a defendant, official capacity suits, such
25 as that brought by Plaintiffs, are generally an alternative way of
26 pleading an action against the local government entity of which the
27 named officer is an agent. See Monell v. Dep't. of Social Servs.,
28 436 U.S. 658, 690 n. 55 (1978); Chew v. Gates, 27 F.3d 1432, 1446

1 n. 15 (9th Cir. 1994). As such, judgments against public servants
2 in their official capacities impose liability on local entities.
3 Brandon v. Holt, 469 U.S. 464, 471-472 (1985).²

4 Where plaintiffs sue both a local government entity and agents
5 of that entity in their official capacities, courts may dismiss the
6 official capacity claims as duplicative. See, e.g. Luke v. Abbott,
7 954 F.Supp. 202, 204 (C.D. Cal. 1997); Vance v. County of Santa
8 Clara, 928 F.Supp. 993, 996 (N.D. Cal. 1996); c.f. Clements v.
9 Airport Authority of Washoe County, 69 F.3d 321, 337 n.20 (9th Cir.
10 1995). Because an official capacity suit is, for all intents and
11 purposes, a suit against a local entity, this court has also
12 dismissed claims against multiple individuals in their official
13 capacities as duplicative. See Thomas v. Baca, 2006 WL 132078 *1
14 (C.D. Cal. 2006) (dismissing six of seven defendants sued in their
15 official capacities).

16 Plaintiffs argue that they cannot obtain effective declaratory
17 or injunctive relief unless all four official capacity defendants
18 remain in this case. (Opp. at 3, 4.) Plaintiffs cite to Fireman's
19 Fund Ins. Co. v. City of Lodi, 302 F.3d 928 (9th Cir. 2002) to
20 support their assertion that they may bring claims against both a
21 local entity and official capacity defendants. (Opp. at 3). While
22 the Fireman's Fund court did allow claims against official capacity
23 and entity defendants, its holding was premised on the conclusion

25 ² Courts are divided on the question whether a Plaintiff may
26 choose to name either an individual in an official capacity or the
27 local entity itself. Compare Bell v. Baca, 2002 WL 368532 *2 (C.D.
28 Cal. 2002) (declining to substitute local entity as defendant in
lieu of official capacity defendant) with Luke v. Abbott, 954
F.Supp. 202, 204 (C.D. Cal. 1997) (dismissing officer sued in his
official capacity and substituting local entity as defendant).

1 that the claims asserted were not duplicative.³ Fireman's Fund,
2 302 F.3d at 957. In Fireman's Fund, the municipal defendant acted
3 "in a single and consolidated effort" with the state. Id. at 935.
4 Because a claim against the municipality alone would have been
5 subject to an Eleventh Amendment immunity defense, the court found
6 that the official capacity claims were necessary and, therefore,
7 distinct. Id. at 957. Here, in contrast, there is no such
8 Eleventh Amendment concern or other potential bar to suit.

9 Plaintiffs' assertion that they must name multiple official
10 capacity defendants because each of the different defendants has
11 different responsibilities is not persuasive.⁴ (Opp. at 4.) As
12 discussed above, any judgment against any one official capacity
13 defendant would impose liability on the county. See Brandon, 469
14 U.S. at 471-472; See also Coconut Beach Dev. LLC v. Baptiste, 2008
15 WL 1867933 *4 (D.Haw. Apr. 28, 2008) ("The court . . . suggest[s]
16 that when [Plaintiff] files its Amended Complaint, it consider
17 naming the County but not the Official-Capacity Defendants, as any
18 injunctive relief sought against the County will also bind all
19 County employees in the performance of their official duties.").

21 ³ Similarly, the court in Coconut Beach Dev. LLC v. Baptiste,
22 2008 WL 1867933 *4 (D.Haw. Apr. 28, 2008) allowed claims against
23 official capacity defendants to proceed because the relevant local
entity was not a party to the suit and, therefore, there were no
duplicative claims.

24 ⁴ Plaintiffs appear to misunderstand the nature of official
25 capacity suits, arguing that an official capacity claim against an
26 individual, unlike a local entity claim, requires proof of that
27 individual's personal conduct. (Opp. at 6-7 n.6.) Plaintiffs'
28 confusion appears to stem from a misreading of Ashcroft v. Iqbal,
which involved individual capacity claims rather than official
capacity claims. Iqbal, 129 S.Ct. at 1948 ("Government officials
may not be held liable for the unconstitutional conduct of their
subordinates under a theory of *respondeat superior*.").

1 Because Plaintiffs' claims against Defendants Tanaka, Rhambo, and
2 Burns in their respective official capacities are duplicative of
3 the claim against Defendant Baca, the claims against Defendants
4 Tanaka, Rhambo, and Burns are dismissed.

5 B. Sufficiency of the Pleadings

6 Defendants also contend that Plaintiffs' Complaint should be
7 dismissed because it seeks an "obey the law" injunction, in
8 violation of Federal Rule of Civil Procedure 65(d) and the Prison
9 Litigation Reform Act ("PLRA"). (Mot. at 4.) Rule 65, however,
10 governs the contents of preliminary injunctions, and does not set
11 forth pleading standards. Nor does the PLRA.

12 In their Reply, Defendants contend that Plaintiffs' Complaint
13 fails to meet Rule 8(a)(3)'s requirement that a claim state "a
14 demand for the relief sought, which may include relief in the
15 alternative or different types of relief." Fed. R. Civ. P.
16 8(a)(3); (Reply at 6-7.) The court disagrees. Plaintiffs' prayer
17 for relief requests an injunction preventing Defendants from
18 physically abusing or threatening inmates, requiring the
19 development of an adequate use of force policy, requiring an
20 adequate, unbiased investigation of all use of force incidents, and
21 other relief. (Compl. at 75.) Plaintiff's prayer is sufficiently
22 specific to provide Defendants with notice of the relief sought, as
23 well as to yield an injunction sufficiently particular to satisfy
24 Rule 65. See Del Webb Comms., Inc. v. Partington, 652 F.3d 1145,
25 1149-50 (9th Cir. 2011).

26 C. Motion to Strike

27 Defendants also move to strike several of Plaintiffs
28 allegations under Federal Rule of Civil Procedure 12(f) as

1 immaterial or impertinent. Fed. R. Civ. P. 12(f); (Mot. at 6).
2 Defendants seek to strike twenty-three paragraphs containing
3 references to reports from the ACLU and other jail monitors and
4 investigators, as well as references to television news and
5 newspaper articles. The majority of the paragraphs in question
6 also contain internet hyperlinks to the source material. Though
7 the factual allegations contained in the disputed paragraphs are
8 neither immaterial nor impertinent, Plaintiff's hyperlinks appear
9 to bear no legitimate relationship to Plaintiffs' complaint and,
10 contrary to Plaintiffs' assertion, are not necessary to meet
11 Plaintiffs' burden under Iqbal. Accordingly, Defendants' Motion to
12 Strike is granted with respect to all hyperlinks.

13 **IV. Conclusion**

14 For the reasons stated above, Defendants' Motion to Dismiss
15 and Request to Strike Plaintiffs' Complaint is GRANTED in part and
16 DENIED in part. Plaintiffs' claims against Defendants Tanaka,
17 Rhambo, and Burns are dismissed. All hyperlinks in Plaintiffs'
18 Complaint are stricken. Plaintiffs shall file a complaint in
19 accordance with this order forthwith.

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22 IT IS SO ORDERED.

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25 Dated: March 20, 2012

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DEAN D. PREGERSON
United States District Judge