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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MIKE CASTANEDA,

Plaintiff,

v.

CITY OF FARMERSVILLE; JEREMY  
BROGAN; and DOES 1 through  
10,

Defendants.

No. 1:15-cv-00148-JAM-SKO

**ORDER GRANTING DEFENDANTS'  
MOTION TO DISMISS**

Plaintiff Mike Castaneda ("Plaintiff") filed a First Amended Complaint ("FAC") (Doc. #19) alleging two causes of action against Defendants City of Farmersville ("the City") and Jeremy Brogan ("Brogan") (collectively "Defendants"). Defendants now move to dismiss (Doc. #20) Plaintiff's claims against the City.<sup>1</sup>

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<sup>1</sup> This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for July 15, 2015.

1 I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND

2 According to the FAC, Plaintiff was a live-in caretaker for  
3 an elderly gentleman in Farmersville, California. While loudly  
4 dealing with his patient, Plaintiff heard a knock at the door.  
5 At the door was Brogan, an officer with the Farmersville Police  
6 Department. Brogan asked Plaintiff to step outside and "promptly  
7 detained Plaintiff using handcuffs." The handcuffs caused  
8 Plaintiff severe pain. Brogan placed Plaintiff in the back of a  
9 police vehicle and slammed the door on Plaintiff's foot. As  
10 Brogan drove Plaintiff to the Tulare County Jail, Brogan drove  
11 erratically in order to cause Plaintiff injuries, which such  
12 injuries did result.

13 Plaintiff requested medical attention for his hands and  
14 foot; Brogan ignored him. Plaintiff was held in custody for  
15 three days without medical attention before being released  
16 without being charged with a crime. Plaintiff alleges that he  
17 has been declared permanently disabled as a result of the  
18 incident.

19 The FAC states two causes of action pursuant to 42 U.S.C.  
20 § 1983 ("§1983") against all Defendants based on (1) Excessive  
21 Force and (2) Denial of Medical Care.

22  
23 II. OPINION

24 Defendants contend the FAC fails to set forth sufficient  
25 facts to plausibly plead a cause of action against the City  
26 pursuant to Monell v. Department of Social Services of City of  
27 New York, 436 U.S. 658 (1978). MTD at p. 3.

28 ///

1 To create municipal liability under §1983, the  
2 constitutional violation must be caused by "a policy, practice,  
3 or custom of the entity," Dougherty v. City of Covina, 654 F.3d  
4 892, 900 (9th Cir. 2011), or be the result of an order by a  
5 policy-making officer, see Gibson v. County of Washoe, 290 F.3d  
6 1175, 1186 (9th Cir. 2002). See also Tsao v. Desert Palace,  
7 Inc., 698 F.3d 1128, 1139 (9th Cir. 2012). "Although detailed  
8 factual allegations are not required under [Federal Rule of Civil  
9 Procedure] 8, a claim must set forth sufficient factual content  
10 that allows the 'court to draw the reasonable inference that the  
11 defendant is liable for the misconduct alleged.'" Herrera v.  
12 City of Sacramento, No. 2:13-CV-00456 JAM-AC, 2013 WL 3992497, at  
13 \*8 (E.D. Cal. 2013) (quoting Ashcroft v. Iqbal, 556 U.S. 662, 678  
14 (2009)).

15 In his Opposition, Plaintiff points to the following  
16 sections of the FAC:

17 [The City] has failed to adequately train its employee  
18 peace officers, including [] Brogan . . . in minimally  
19 accepted standards of police conduct . . . including  
proper use of [force] . . . and obligations to provide  
20 medical care . . . . [FAC ¶ 10]

21 Defendant Brogan . . . acting within the course and  
22 scope of his duties . . . seized, detained and arrested  
Plaintiff without a warrant, probable cause, reasonable  
suspicion or any other legal justification . . . . [FAC  
¶ 22]

23 Opp. at p. 4. Plaintiff adds that Defendants were also "placed  
24 on notice" by the FAC's allegation that Brogan "intentionally and  
25 deliberately refused to render or provide any form of reasonable  
26 medical care to treat Plaintiff for the injuries he had suffered  
27 . . . . [FAC ¶ 27]." Id. Plaintiff argues these allegations  
28 adequately put Defendants "on notice for what they must defend."

1 Opp. at pp. 3-4.

2 First, the allegations regarding Brogan's conduct  
3 surrounding the seizure and detention of Plaintiff (FAC ¶ 22) and  
4 his failure to provide medical care (FAC ¶ 27) relate to and  
5 properly support Plaintiff's claims against Brogan. However, the  
6 City cannot be held liable for Brogan's actions under a  
7 respondeat superior theory. See Hunter v. Cnty. of Sacramento,  
8 652 F.3d 1225, 1232-33 (9th Cir. 2011).

9 The only allegations in the FAC providing any basis for the  
10 City's liability pursuant to Monell are entirely conclusory. FAC  
11 ¶¶ 10-11. "[T]o sufficiently state a claim under Monell, it is  
12 not enough to state that there is a policy and the policy  
13 amounted to deliberate indifference to various constitutional  
14 rights of the Plaintiffs; there must be facts showing the  
15 plausibility of those statements." Herrera, 2013 WL 3992497, at  
16 \*8. "Although [a] plaintiff may benefit from discovery, the  
17 Supreme Court has made it clear that threadbare allegations are  
18 insufficient to 'unlock the doors of discovery for a plaintiff  
19 armed with nothing more than conclusions.'" Via v. City of  
20 Fairfield, 833 F. Supp. 2d 1189, 1196 (E.D. Cal. 2011) (quoting  
21 Iqbal, 556 U.S. at 678-79).

22 The FAC does not allege any facts supporting Plaintiff's  
23 claims that the City failed to adequately train and supervise its  
24 officers and properly investigate claims of misconduct. The  
25 Court accordingly grants Defendants' motion to dismiss  
26 Plaintiff's claims against the City in the first and second  
27 causes of action. Because it is not clear to the Court that  
28 Plaintiff can allege no set of facts to support such claims, the

1 Court grants Plaintiff leave to amend.

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III. ORDER

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For the reasons set forth above, the Court GRANTS Defendants' Motion to Dismiss Plaintiff's claims against the City WITH LEAVE TO AMEND. If Plaintiff chooses to amend, he must file his new complaint within twenty (20) days of the date of this order. Defendants must file their responsive pleading within twenty (20) days thereafter.

IT IS SO ORDERED.

Dated: July 10, 2015

  
JOHN A. MENDEZ,  
UNITED STATES DISTRICT JUDGE