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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JACQUELINE GAINES and OLYMPIA MORRIS<sup>1</sup>  
  
Plaintiffs,  
  
v.  
  
SACRAMENTO COUNTY CHILD PROTECTIVE SERVICES AGENCY, an agency of the County of Sacramento; ANN EDWARDS, in her individual and professional capacities; SANDRA THOMPSON, in her individual and professional capacities; SHAUNTE DERRICK, in her individual and professional capacities; and SANTRICE DAVIS, in her individual and professional capacities,  
  
Defendants.

No. 2:12-cv-01450-GEB-EFB

**ORDER GRANTING EACH DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Each Defendant moves for summary judgment on each claim alleged against the movant.<sup>2</sup> Plaintiffs allege in their Complaint the following claims under California law: negligence, intentional infliction of emotional distress, and conspiracy.

<sup>1</sup> The caption has been modified because Olympia Morris, referred to as "O.M." when this suit was filed, turned 18 on March 20, 2012. Therefore, the use of her initials is no longer required under Federal Rule of Civil Procedure ("Rule") 5.2. (See Compl. ¶ 4.)

<sup>2</sup> Defendant Santrice Davis filed a separate summary judgment motion. (See Mem. P.&A. Supp. Mot. Summ. J. ("Davis Mot."), ECF No. 30.) Since both motions raise similar arguments, they are considered together.

1 (Compl. ¶¶ 17, 28-37.) Plaintiffs allege the following claims  
2 under 42 U.S.C. § 1983: due process, equal protection, familial  
3 association, and conspiracy. (Id. ¶ 22.) The factual allegations  
4 underlying the claims are the following: Defendants wrongfully  
5 removed Plaintiff Olympia Morris ("Morris") from the custody of  
6 her mother, Plaintiff Jacqueline Gaines ("Gaines"), falsified  
7 investigative reports, gave false testimony during Juvenile Court  
8 dependency proceedings, made unfounded recommendations to the  
9 Juvenile Court on visits Gaines and Morris should have with each  
10 other, and failed to ensure Morris' well-being while she was in  
11 foster care. (See id. ¶¶ 4, 6-13.)

12 Plaintiffs' attorneys filed a Notice of Non-Opposition  
13 to the pending motions on March 24, 2015. (ECF No. 38.) However,  
14 on April 17, 2015, Gaines filed an unverified response to the  
15 motions in propria persona. (ECF No. 43.)<sup>3</sup>

#### 16 I. LEGAL STANDARD

17 A party is entitled to summary judgment if  
18 "the movant shows that there is no genuine  
19 dispute as to any material fact and the  
20 movant is entitled to judgment as a matter of  
law." . . . The moving party has the burden  
of establishing the absence of a genuine  
dispute of material fact.

21 City of Pomona v. SQM North Am. Corp., 750 F.3d 1036, 1049 (9th  
22 Cir. 2014) (quoting Fed. R. Civ. P. 56(a)) (citing Celotex Corp.  
23 v. Catrett, 477 U.S. 317, 323 (1986)). "A fact is 'material' when  
24 . . . it could affect the outcome of the case." Thrifty Oil Co.  
25 v. Bank of Am. Nat'l Trust & Sav. Ass'n, 322 F.3d 1039, 1046 (9th  
26 Cir. 2003) (quoting Anderson v. Liberty Lobby, Inc., 477 U.S.

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27  
28 <sup>3</sup> Plaintiffs' counsel filed a Motion to be Relieved as Counsel on March 26,  
2015, which was denied on May 6, 2015.

1 242, 248 (1986)). "A[] [dispute] of material fact is "genuine"  
2 when "the evidence is such that a reasonable jury could return a  
3 verdict for the nonmoving party." Anderson, 477 U.S. at 248.

4 A party asserting that a fact cannot be or is  
5 genuinely disputed must support the assertion  
6 by . . . citing to particular parts of  
7 materials in the record . . . or . . .  
8 showing that the materials cited do not  
9 establish the absence or presence of a  
10 genuine dispute, or that an adverse party  
11 cannot produce admissible evidence to support  
12 the fact.

13 Fed. R. Civ. P. 56(c) (1) (A)-(B) .

14 Local Rule 260(b) prescribes:

15 Any party opposing a motion for summary  
16 judgment . . . [must] reproduce the itemized  
17 facts in the [moving party's] Statement of  
18 Undisputed Facts and admit those facts that  
19 are undisputed and deny those that are  
20 disputed, including with each denial a  
21 citation to the particular portions of any  
22 pleading, affidavit, deposition,  
23 interrogatory answer, admission, or other  
24 document relied upon in support of that  
25 denial.

26 If the nonmovant does not "specifically . . .  
27 [controvert duly supported] facts identified in the [movant's]  
28 statement of undisputed facts," the nonmovant "is deemed to have  
admitted the validity of the facts contained in the [movant's]  
statement." Beard v. Banks, 548 U.S. 521, 527 (2006).

Because a district court has no independent duty "to  
scour the record in search of a genuine issue of triable fact,"  
and may "rely on the nonmoving party to identify with reasonable  
particularity the evidence that precludes summary judgment,"  
. . . the district court . . . [is] under no obligation to  
undertake a cumbersome review of the record on the [nonmoving  
party's] behalf. Simmons v. Navajo Cnty., Ariz., 609 F.3d 1011,

1 1017 (9th Cir. 2010) (quoting Keenan v. Allan, 91 F.3d 1275, 1279  
2 (9th Cir. 1996)).

3 **II. UNCONTROVERTED FACTS**

4 Each motion is supported with the following  
5 uncontroverted facts.

6 "On November 18, 2008, while at school, [Morris]  
7 entered [Vice Principal and Counselor Michele Gorman's] office,  
8 and told Gorman that she was afraid to go home out of concern  
9 over a bad progress report. [Morris] also informed Ms. Gorman  
10 that her mother had hit her before." (Statement of Undisputed  
11 Material Facts Supp. Defs.' Mot. Summ. J ("SUF") No. 2, ECF No.  
12 29-3.) Specifically, Morris "told . . . Gorman that her mother .  
13 . . . [had previously] hit her across the face . . . because of her  
14 cellphone bill." (Id. No. 3.) Gorman, a "mandated child abuse  
15 reporter . . . . completed a suspected child abuse report" on  
16 November 18, 2008, which detailed Morris' account of alleged  
17 abuse, stating: "[Morris] is fearful that her mom will hit her  
18 again." (Id. Nos. 4-6.) Gorman also "telephoned [CPS]" and "spoke  
19 with Leslie Green at CPS and told her exactly what she had  
20 written on the child abuse report." (Id. Nos. 7-8.) "Ms. Green  
21 indicated that they would not be able to get a CPS worker out to  
22 the school that afternoon, and suggested that Gorman call law  
23 enforcement." (Id. No. 9.) That same day, Gorman "called the  
24 Sacramento City Police and made the same report of suspected  
25 child abuse." (Id. No. 10.) "[F]ollowing . . . Gorman's call  
26 . . . two police officers responded to [Morris'] school" and  
27 "escorted [her] to her home," where they "spoke to both Gaines  
28 and [Morris.]" (Id. Nos. 11-13.) The officers left, and Morris

1 "slept at home that night." (Id. No. 15.)

2 On December 9, 2008, Defendant Sandra Thompson  
3 conducted a home visit with Morris and Gaines regarding the  
4 November 18, 2008 child abuse allegations, and "reported her  
5 interaction with the family to a CPS supervisor" on December 10,  
6 2008. (Id. Nos. 16-17; Dep. Sandra Thompson 19:20-20:4, Ex. C to  
7 Decl. Mark P. O'Dea ("O'Dea Decl."), ECF No. 29-5.) Thompson  
8 stated in that report:

9 [Morris] disclosed that she was afraid and  
10 that her mom hit her in the eye a few weeks  
11 before. She disclosed that she had blurred  
12 vision and was still experiencing some pain.  
13 She was crying. Her mother was pointing her  
14 finger in her face. [I] could not calm Ms.  
15 Gaines down, nor was [I] able to establish a  
16 safety plan with Ms. Gaines.

17 (SUF No. 18.)

18 "On December 11, 2008 . . . Thompson interviewed  
19 [Morris] at her school. [Morris] indicated that she was fearful  
20 of returning home and she reported that her mother had been  
21 verbally and physically abusive toward her and she was afraid of  
22 going to sleep at night." (Id. No. 20.) "Thompson made a decision  
23 not to detain [Morris at that time] because she did not have  
24 enough information . . . and did not believe that exigent  
25 circumstances existed. She also did not believe that [Morris] was  
26 in imminent danger while she was at school." (Id. No. 21.) That  
27 same day, "[Morris] reported to the school principal and vice  
28 principal/counselor that she did not want to go home," and  
"school staff [then] called the Sacramento Police Department for  
assistance, and Officer Christopher Shippen responded." (Id. Nos.  
22-23.) Subsequently, Officer Shippen spoke to Morris at school,

1 after which he transported her home, where he "made contact with  
2 . . . Gaines." (Id. Nos. 25-26.) Shippen spoke with with Morris  
3 and Gaines, and "at one point during the conversation the  
4 interaction between [Plaintiffs] became very, very heated, with  
5 both participants raising their voice and yelling at each other."  
6 (Id. No. 27.) As a result, Officer Shippen "became concerned" and  
7 "decided to intervene and formulate a plan to take [Morris] into  
8 protective custody and transport her to the children's receiving  
9 home to ensure that both parties were separated and that the  
10 situation would not deteriorate any further." (Id. No. 28.)

11 "[N]o one from CPS was present at the family residence  
12 during the time that Officer Shippen interacted with Gaines and  
13 [Morris] and [when he] made the decision to take [Morris] into  
14 protective custody." (Id. No. 29.) Further, "[o]n December 11,  
15 2008, Officer Shippen did not contact CPS . . . in connection  
16 with his decision to take [Morris] into protective custody." (Id.  
17 No. 30.)

18 "On December 16, 2008, the . . . Juvenile Court  
19 conducted a . . . hearing" at which Gaines was represented by  
20 counsel. (Id. No. 34.) "At the hearing, the [Juvenile Court]  
21 found that . . . [living] . . . in [Gaines'] home was contrary to  
22 [Morris'] welfare . . . [and ordered that Morris] be detained by  
23 the Department of Health and Human Services." (Id. No. 35.) The  
24 Juvenile Court also scheduled a status hearing on January 8,  
25 2009, which was continued to January 29, 2009. (Id. Nos. 36-37.)

26 In connection with the Juvenile Court proceedings,  
27 Defendant Shaunte Derrick interviewed Gaines on January 21, 2009,  
28 and Morris on January 22, 2009. (Id. Nos. 38-39.) Derrick

1 subsequently "prepared a summary of the interview[s] and entered  
2 [them] into the CPS [c]omputer system." (Id. No. 38.)

3 On or about January 27, 2009 [Derrick]  
4 prepared [a report] for the [January 29,  
5 2009] hearing . . . . In preparing the  
6 [report], [Derrick] included, verbatim, her  
7 summaries of her interviews with [Gaines and  
8 Morris]. In particular, [Derrick] included  
9 all of [Gaines'] statements denying and  
10 disputing the allegations of abuse made by  
11 [Morris].

12 (Id. No. 40.)

13 The January 29, 2009 status hearing was continued to  
14 April 30, 2009, at which time the Juvenile Court also scheduled a  
15 jurisdiction/disposition hearing. (Id. Nos. 41-44.) The Juvenile  
16 Court held jurisdiction/disposition hearings on multiple dates in  
17 June and July 2009, including on June 10, 2009 and June 11, 2009,  
18 at which time Defendant Thompson testified. (SUF Nos. 47-48.) On  
19 July 21, 2009, the Juvenile Court issued an order that Morris  
20 "should be adjudged a dependent child of the court." (Id. No.  
21 87.) The order specified that Gaines "shall have regular  
22 visitation with [Morris] consistent with [Morris'] wellbeing[,] "  
23 and that "[t]he Department of Health and Human Services shall  
24 determine the time, place and manner of visitation, including the  
25 frequency of visits, length of visits and whether the visits are  
26 supervised and who supervises them." (Statement of Undisputed  
27 Material Facts Supp. Davis Mot. Summ. J. ("Davis SUF") No. 3, ECF  
28 No. 32.)

29 "Defendant Davis was assigned as Plaintiffs' family  
30 reunification social worker" in June 2009, while Gaines' custody  
31 of Morris was being contested in Juvenile Court. (Id. No. 2.) "At  
32 the time . . . Davis was assigned to the case[,] visitation

1 [between Gaines and Morris] was supervised . . . . [Davis] . . .  
2 met with [Plaintiffs] about once a month.” (Id. No. 4.)

3 The supervised visits [between Plaintiffs]  
4 changed to unsupervised in April of 2010  
5 after a meeting . . . between Defendant  
6 Davis, Plaintiffs and [Morris’] siblings and  
7 her grandmother. They all met and had dinner  
8 . . . during which time Defendant Davis  
9 witnessed an interaction between the  
10 Plaintiffs that she had never seen throughout  
11 the case. Her understanding was that . . .  
12 Plaintiff Gaines and [Morris], both wanted to  
13 reunify. During this meeting, she saw  
14 affection between them . . . [that] she had  
15 not seen before.

16 (Id. No. 9.)

17 Following the meeting, “[i]n April 2010, Defendant  
18 Davis submitted a report to the [Juvenile] Court that Plaintiff  
19 Gaines and [Morris] had expressed a desire to reunify and  
20 indicated to the court that she was changing her recommendation  
21 from terminating Family Reunification to allowing Plaintiffs  
22 . . . [to reunite].” (Id. No. 10.) However, in May 2010 Davis  
23 “recommended the court grant restricted or supervised visitation  
24 again.” (Id. No. 11.)

25 Defendant Davis testified she recalls . . .  
26 that the basis for requesting the court . . .  
27 [restrict] visitation again [in May 2010] was  
28 because she could not assess the quality of  
the interaction between Plaintiffs. There was  
no feedback from Plaintiff[s] Gaines or  
[Morris on this issue]. [Further, Morris] had  
been observed to increase opposition toward  
participating in [county] services following  
the change in visitation from supervised to  
unsupervised. Plaintiff Gaines testified that  
she disagreed with this change of visits.  
[She] felt she had no control over Defendant  
[Davis’] interactions with her daughter.

29 (Id. Nos. 11-12.)

30 While Morris was in foster care she “did not have any

1 complaints about her care . . . . She never felt unsafe.” (Id.  
2 No. 13; Dep. Olympia Morris 62:15-64:11, Ex. E to Decl. Carol  
3 Wieckowski Supp. Davis Mot. Summ J., ECF No. 31.) When Defendant  
4 Davis saw Morris “within the [foster] home and . . . at school or  
5 in other capacities such as visitation with Plaintiff Gaines,  
6 [Morris] never expressed any concerns to . . . Davis about  
7 residing with [her foster mother.]” (Davis SUF No. 13.) “[Morris]  
8 testified that she was having regular visits with a social worker  
9 [from CPS] the whole time she lived [with her foster mother.]”  
10 (Id. No. 8.)

11 [Morris] asserts that [in September of 2010,  
12 after Davis was no longer her social worker]  
13 she was sexually assaulted in the home of two  
14 acquaintances, ‘Robert’ and ‘Anthony’.  
15 [Morris] was at the home of ‘Robert and  
16 Anthony’ without the permission of [her  
17 foster mother]. The foster [mother] had  
18 notified the police that she suspected that  
19 [Morris] was at [Robert and Anthony’s house],  
20 and the police responded . . . . However,  
21 [Morris] hid from the police and [Robert]  
22 persuaded them that [Morris] was not there.

(SUF Nos. 106-108; Dep. Olympia Morris 90:6-96:25, Ex. A to O’Dea  
Decl.; Davis SUF No. 14)

“On March 10, 2011 the Juvenile Court ordered that the  
dependency of [Morris] be terminated and that sole physical and  
legal custody be awarded to [Gaines].” (SUF No. 109.)

### III. DISCUSSION

Defendants argue the motions should be granted because  
“[n]o Defendant . . . removed [Morris] from [Gaines’] house or  
participated in [her] removal,” and Defendants “acted  
appropriately, professionally, responsibly, and in good faith in  
investigating [Gaines’ alleged abusive treatment of Morris] and

1 presenting . . . information to the [J]uvenile [C]ourt." (Defs.'  
2 Mot. Summ J. ("Mot.") 3:21-24, 47:13-15, ECF No. 29.) Further,  
3 Defendants argue "there is no evidence that any . . . [Defendant]  
4 engaged in the falsification of reports or facts submitted to the  
5 [Juvenile] [C]ourt [or] . . . [was] negligent in the selection or  
6 supervision of [Morris'] foster care placement." (Mot. 38:21-23,  
7 45:22-25.) These arguments are adequately supported by the  
8 uncontroverted facts.

9 Plaintiff Gaines responds to the motions with the  
10 conclusory assertions that CPS investigators "ignored"  
11 information that was helpful to Gaines' case in the Juvenile  
12 Court dependency proceedings, and that "[d]uring the [dependency  
13 hearings] . . . [Defendants] lied under oath and hid evidence  
14 from the court." (Gaines' Response 1-2.)

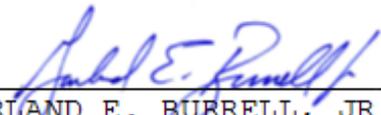
15 However, Plaintiffs "cannot establish a disputed  
16 question of material fact, and thereby avoid summary judgment, by  
17 making . . . 'bare assertion[s]' that [are] devoid of 'any legal  
18 or factual support.'" Kitchens v. Pierce, 565 F. App'x 590, 591  
19 (9th Cir. 2014) (quoting DeNueva v. Reyes, 966 F.2d 480, 486 (9th  
20 Cir. 1992)). Further, "[m]ere argument does not establish a  
21 genuine [dispute] of material fact to defeat summary judgment."  
22 MAI Systems Corp. v. Peak Computer, Inc., 991 F.2d 511, 518 (9th  
23 Cir. 1993), cert. dismissed, 510 U.S. 1033 (1994); see generally  
24 Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574,  
25 587 (1986) (stating the "purpose of summary judgment is to  
26 'pierce the pleadings and to assess the proof in order to see  
27 whether there is a genuine need for trial.'" (quoting Rule  
28 56(e)'s Advisory Committee Note on the 1963 Amendments to the

1 Rule). "In the absence of specific facts . . . showing the  
2 existence of a genuine [dispute] for trial, a properly supported  
3 summary judgment motion should be granted." Nilsson, Robbins,  
4 Dalgarn, Berliner, Carson & Wurst v. Louisiana Hydrolec, 854 F.2d  
5 1538, 1545 (9th Cir. 1988) (finding the district court properly  
6 granted the plaintiff's summary judgment motion where "the  
7 defendants against whom summary judgment was entered made no  
8 showing of specific facts in their opposition.")

9 **IV. CONCLUSION**

10 For the foregoing reasons, each Defendant's summary  
11 judgment motion is granted, and judgment shall be entered in each  
12 Defendant's favor.

13 Dated: May 8, 2015

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17 GARIAND E. BURRELL, JR.  
18 Senior United States District Judge  
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