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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DELILAH MARIE HAMPTON; and
JAMILA BREELER,

Plaintiffs,

v.

COUNTY OF SAN JOAQUIN, et al.,

Defendants.

No. 2:16-cv-01816-MCE-AC

MEMORANDUM AND ORDER

Through the present lawsuit, Plaintiff Delilah Marie Hampton seeks damages from Defendants San Joaquin County and fourteen individually-named San Joaquin County Sheriff's deputies, claiming that she was unreasonably restrained by the deputies, and subsequently arrested, after she reportedly caused a scene in a Superior Court courtroom. Plaintiff Hampton claims violations of her constitutional right to be free from unreasonable search and seizure pursuant to 42 U.S.C. § 1983 and further asserts various state law claims for false arrest, imprisonment and battery. She also contends that Defendant County is liable for the wrongdoing she alleges by failing to adequately train, supervise and discipline its deputies. In addition, Plaintiff Jamila Breeler asserts her own claim for negligent infliction of emotional distress as a result of contemporaneously observing the injuries sustained by her sister, Plaintiff Hampton.

1 Defendants County and thirteen of the individually named deputies¹ now move to
2 dismiss Plaintiff's First Amended Complaint ("FAC") pursuant to Federal Rule of Civil
3 Procedure 12(b)(6) on grounds that it fails to allege any specific violations against any of
4 the allegedly involved deputies, and consequently fails to state any claim upon which
5 relief can be granted.² As set forth below, Defendants' Motion is GRANTED.³

7 BACKGROUND

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9 On March 10, 2016, Plaintiff Hampton visited San Joaquin County Superior
10 Court's facilities in Stockton, California, to observe a scheduled court proceeding. After
11 a short time inside the courtroom, Plaintiff alleges she was told to leave by Defendant
12 San Joaquin Sheriff's Department Deputy Steve Head. Once outside, Plaintiff claims
13 that Deputy Head threw her against a wall and attempted to place her under arrest
14 without probable cause or legal justification. FAC, ¶¶ 12-14. Shortly thereafter, Plaintiff
15 Hampton claims she "was thrown to the ground and subjected by all DEFENDANTS to
16 unreasonable and excessive force while PLAINTIFF was handcuffed." *Id.* at ¶ 15. Aside
17 from the allegations levied against Deputy Head described above, the FAC contains no
18 further charging allegations against any of the thirteen other deputies claimed by Plaintiff
19 Hampton to have acted improperly.

20 With regard to Plaintiff Breeler, the FAC states that she was "in close proximity" to
21 her sister and consequently observed the injuries inflicted on her sister, causing Breeler
22 "to suffer severe emotional distress." *Id.* at ¶ 16.

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25 ¹ Deputy Steve Head is not a moving party in the instant motion.

26 ² Plaintiffs also include the City of Stockton as a named Defendant, apparently because a City of
27 Stockton Police Officer, Defendant Tess Vallines, was also involved in the events underlying this litigation.
Neither the City nor Officer Vallines, however, are parties to the present Motion.

28 ³ Having determined that oral argument would not be of material assistance, the Court ordered this
matter submitted on the briefs in accordance with Local Rule 230(g).

1 Finally, in contending that the County bears responsibility for its deputies' alleged
2 misconduct, Plaintiffs state only in conclusory fashion that the County has "a duty to
3 adequately train, supervise, and discipline their deputy Sheriffs in order to protect
4 members of the public, including PLAINTIFF[S], from being harmed by such deputies
5 unnecessarily." *Id.* at ¶ 40.

6 Aside from these cursory allegations, the FAC contains no other factual detail with
7 respect to moving Defendants' claimed wrongdoing.

8 9 STANDARD

10
11 On a motion to dismiss for failure to state a claim under Federal Rule of Civil
12 Procedure 12(b)(6), all allegations of material fact must be accepted as true and
13 construed in the light most favorable to the nonmoving party. *Cahill v. Liberty Mut. Ins.*
14 *Co.*, 80 F.3d 336, 337-38 (9th Cir. 1996). Rule 8(a)(2) "requires only 'a short and plain
15 statement of the claim showing that the pleader is entitled to relief' in order to 'give the
16 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" *Bell*
17 *Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41,
18 47 (1957)). A complaint attacked by a Rule 12(b)(6) motion to dismiss does not require
19 detailed factual allegations. However, "a plaintiff's obligation to provide the grounds of
20 his entitlement to relief requires more than labels and conclusions, and a formulaic
21 recitation of the elements of a cause of action will not do." *Id.* (internal citations and
22 quotations omitted). A court is not required to accept as true a "legal conclusion
23 couched as a factual allegation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting
24 *Twombly*, 550 U.S. at 555). "Factual allegations must be enough to raise a right to relief
25 above the speculative level." *Twombly*, 550 U.S. at 555 (citing 5 Charles Alan Wright &
26 Arthur R. Miller, *Federal Practice and Procedure* § 1216 (3d ed. 2004) (stating that the
27 pleading must contain something more than "a statement of facts that merely creates a
28 suspicion [of] a legally cognizable right of action")).

1 Furthermore, “Rule 8(a)(2) . . . requires a showing, rather than a blanket
2 assertion, of entitlement to relief.” Twombly, 550 U.S. at 555 n.3 (internal citations and
3 quotations omitted). Thus, “[w]ithout some factual allegation in the complaint, it is hard
4 to see how a claimant could satisfy the requirements of providing not only ‘fair notice’ of
5 the nature of the claim, but also ‘grounds’ on which the claim rests.” Id. (citing Wright &
6 Miller, supra, at 94, 95). A pleading must contain “only enough facts to state a claim to
7 relief that is plausible on its face.” Id. at 570. If the “plaintiffs . . . have not nudged their
8 claims across the line from conceivable to plausible, their complaint must be dismissed.”
9 Id. However, “[a] well-pleaded complaint may proceed even if it strikes a savvy judge
10 that actual proof of those facts is improbable, and ‘that a recovery is very remote and
11 unlikely.” Id. at 556 (quoting Scheuer v. Rhodes, 416 U.S. 232, 236 (1974)).

12 A court granting a motion to dismiss a complaint must then decide whether to
13 grant leave to amend. Leave to amend should be “freely given” where there is no
14 “undue delay, bad faith or dilatory motive on the part of the movant, . . . undue prejudice
15 to the opposing party by virtue of allowance of the amendment, [or] futility of the
16 amendment” Foman v. Davis, 371 U.S. 178, 182 (1962); Eminence Capital, LLC v.
17 Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003) (listing the Foman factors as those to
18 be considered when deciding whether to grant leave to amend). Not all of these factors
19 merit equal weight. Rather, “the consideration of prejudice to the opposing party . . .
20 carries the greatest weight.” Id. (citing DCD Programs, Ltd. v. Leighton, 833 F.2d 183,
21 185 (9th Cir. 1987)). Dismissal without leave to amend is proper only if it is clear that
22 “the complaint could not be saved by any amendment.” Intri-Plex Techs. v. Crest Group,
23 Inc., 499 F.3d 1048, 1056 (9th Cir. 2007) (citing In re Daou Sys., Inc., 411 F.3d 1006,
24 1013 (9th Cir. 2005); Ascon Props., Inc. v. Mobil Oil Co., 866 F.2d 1149, 1160 (9th Cir.
25 1989) (“Leave need not be granted where the amendment of the complaint . . .
26 constitutes an exercise in futility”)).

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1 Breeler must show 1) that she is closely related to the injured victim; 2) that she was
2 present at the injury-producing event and aware that it was causing injury to the victim;
3 and 3) that she suffered serious emotional distress beyond that typically anticipated as a
4 disinterested witness. Id. at 667-68. “While physical injury [to the bystander plaintiff] is
5 no longer required, the emotional distress must be such that ‘a reasonable [person],
6 normally constituted,’ would be unable to endure it.” Akey v. Placer County, No. 2:14-cv-
7 2402-KJM-KJN, 2015 WL 5138152 at * 8 (E.D. Cal. Sept. 1, 2015), citing Molien v.
8 Kaiser Found. Hospitals, 27 Cal. 3d 916, 928 (1980).

9 Here, in conclusorily alleging only that she suffered “severe emotional distress”,
10 without any further factual explication of just what she was or how it affected her, Plaintiff
11 Breeler has not adequately pleaded a negligent infliction of emotional distress claim
12 under a bystander theory of liability.

14 CONCLUSION

15
16 For all the foregoing reasons, Defendants’ Motion to Dismiss (ECF No. 20) is
17 GRANTED in its entirety.⁵ Plaintiffs may file an amended pleading not later than twenty
18 (20) days after the date this Memorandum and Order should they wish to do so. If no
19 amended complaint is filed, the causes of action dismissed by virtue of this Order shall
20 be deemed dismissed with prejudice upon no further notice to the parties.

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27 ⁵ While moving defendants also claim they are entitled to qualified immunity under the
28 circumstances of this matter, because the Court concludes that Plaintiffs’ allegations are insufficient on
their face to state any viable claim against said defendants, it need not address the qualified immunity at
this time and declines to do so.

1 Because leave to amend is being accorded by this Memorandum and Order, Plaintiffs'
2 subsequently filed Motion for Leave to Amend First Amended Complaint (ECF No. 26) is
3 DENIED as moot.

4 IT IS SO ORDERED.

5 Dated: June 29, 2017

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7 MORRISON C. ENGLAND, JR.
8 UNITED STATES DISTRICT JUDGE
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