



1 ¶ 16. As plaintiffs sued the Sheriff’s office rather than individual officers, their claim could  
2 succeed only under *Monell v. Department of Social Services*, 436 U.S. 658 (1978). *See Jackson*  
3 *v. Barnes*, 749 F.3d 755, 764 (9th Cir. 2014); *Wagner v. Santa Clara Sheriff’s Off.*, 116 F.3d 488  
4 (9th Cir. 1997) (unpublished) (affirming dismissal of “claims against the Sheriff’s Office”  
5 because complaint did not “allege the existence of any practice, policy, or custom”). In its prior  
6 order, however, the court said it was dismissing the plaintiffs’ *Monell* claim without dismissing  
7 the Fourth Amendment claim. Prev. Order (Mar. 25, 2022) at 17–18. The allegations the  
8 plaintiffs offered in support of the *Monell* claim described only “isolated or sporadic incidents,”  
9 which do not suffice to state a claim. *Id.* at 18. Plaintiffs have included the same allegations in  
10 the operative complaint now before the court.

11 Because the plaintiffs have not pleaded a claim under *Monell*, the County argues the  
12 remaining Fourth Amendment claim must also now be dismissed. *See generally* Mot. (Apr. 8,  
13 2022), ECF No. 108. Alternatively, the defendants request relief under Rule 60 in the form of  
14 dismissal of the Fourth Amendment claim. *See id.* at 11. The motion is fully briefed. Opp’n,  
15 ECF No. 109; Suppl., ECF No. 110; Reply, ECF No. 111. The court now submits the motion on  
16 the papers.

17 Rule 60 is the appropriate tool to correct the error in this court’s previous order. Under  
18 Rule 60(a), a court “may correct . . . a mistake arising from oversight or omission.” This rule  
19 permits a court to ensure its orders achieve the results it “originally intended.” *Tattersalls, Ltd. v.*  
20 *DeHaven*, 745 F.3d 1294, 1297 (9th Cir. 2014) (citation and marks omitted). In other words, the  
21 rule permits a court to correct a previous order when what is “spoken, written or recorded is not  
22 what the [court] intended to speak, write or record.” *Waggoner v. R. McGray, Inc.*, 743 F.2d 643,  
23 644 (9th Cir. 1984).

24 No factual allegations in the operative complaint support the plaintiffs’ theory that the  
25 Sheriff’s Office as an agency of the County is liable under *Monell*. The complaint alleges only  
26 that “[c]onsistent with policy and custom, [d]efendants . . . enforced Ordinance 4497 against  
27 [p]laintiffs.” TAC ¶ 93. Reciting the elements of a *Monell* claim without factual allegations is  
28 insufficient to state a claim. *AE ex rel. Hernandez v. Cty. of Tulare*, 666 F.3d 631, 637 (9th Cir.

1 2012). For that reason, the court's prior order should have disposed of all claims against the  
2 County, including the Fourth Amendment claim that the court erroneously permitted to continue.  
3 Dismissing that claim now corrects the error, however inadvertent.

4 The court previously determined that plaintiffs should not be granted leave to amend their  
5 complaint again. Prev. Order (Mar. 25, 2022) at 20. The plaintiffs have offered no persuasive  
6 reason to reconsider that decision. The operative complaint is thus dismissed without leave to  
7 amend.

8 **I. CONCLUSION**

9 The motion for relief under Rule 60 (ECF No. 108) is **granted**. The Third Amended  
10 Complaint is **dismissed without leave to amend**. All previously set deadlines and hearing dates  
11 are vacated. The Clerk of Court is directed to **close the case**.

12 IT IS SO ORDERED.

13 DATED: June 27, 2022.

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CHIEF UNITED STATES DISTRICT JUDGE