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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TRACI HAMILTON, individually and as
Guardian Ad Litem for minor Plaintiffs
PHH, JNH, JDH, NHH, MHH, and
RICKY HAMILTON,

Plaintiffs,

v.

COUNTY OF SOLANO, EDWARD
MILLER, KATHERINE MEDRANO,
MAGIE CHIANG, REBECCA
CURCURO, CITY OF VACAVILLE,
and DOES 1 – 20, inclusive,

Defendants.

No. 2:19-cv-01804-MCE-KJN

MEMORANDUM AND ORDER

Through this action, Plaintiffs Traci Hamilton (individually and as guardian ad litem for minor Plaintiffs PHH, JNH, JDH, NHH, MHH) and Ricky Hamilton (collectively “Plaintiffs”) seek to recover damages from Defendants County of Solano (“County”), City of Vacaville (“City”), Edward Miller (“Miller”), Katherine Medrano (“Medrano”), Magie Chiang (“Chiang”), Rebecca Curcuro (“Curcuro”), Carly Hamilton,¹ Denise Rochlitz (“Rochlitz”), Lusette Okada (“Okada”), Alexandria Scandalia-Dempsey (“Scandalia-Dempsey”), Desiree English (“English”), Detective Dayna Hardwick (“Hardwick”), Katie

¹ Hereafter referred to as “Carly Hamilton” to avoid confusion with the Plaintiffs.

1 Lopez (“Lopez”), Officer Shehan (“Shehan”), and Lieutenant Keith Hopper (“Hopper”),
2 along with an unknown number of Doe Defendants (collectively “Defendants”), for
3 violation of rights to familial association; unlawful seizure; judicial deception; intentional
4 infliction of emotional distress; false imprisonment; negligence and negligence per se;
5 and Monell liability. See First Amended Complaint, ECF No. 13 (“FAC”). According to
6 Plaintiffs, they suffered injuries when the children were taken from their mother Traci
7 Hamilton’s custody on two occasions.

8 Presently before the Court are two Motions to Dismiss: (1) one filed by “City
9 Defendants,” which includes the City, Hardwick, Lopez, Shehan and Hopper (ECF
10 No. 17) (“City’s Motion”); and (2) one filed by “County Defendants,” which includes the
11 County, Miller, Medrano, Chiang, Curcuro, Carly Hamilton, Rochlitz, Okada, Scandalia-
12 Dempsey, and English (ECF No.18) (“County’s Motion”).² Plaintiffs timely opposed both
13 Motions, and Defendants timely replied. ECF Nos. 20-23. For the reasons that follow,
14 both Motions are GRANTED.³

15 16 **BACKGROUND⁴**

17 18 **A. 2019 Incident⁵**

19 Plaintiff Traci Hamilton (“Traci”) is the mother to six children (“the children”),
20 including the five minor plaintiffs and Ricky Hamilton (an adult as of the filing of the
21 original Complaint). At all relevant times, Traci and the children lived in a home with the
22 children’s father, Nathaniel Hamilton (“Nathaniel”). On January 13, 2019, PHH texted

23
24 ² In their FAC, Plaintiffs have chosen not to reassert their seventh and eighth causes of action.
See FAC, ¶ 198-99. Those causes of action are thus no longer before the Court. To the extent
Defendants move to dismiss those claims, their arguments are accordingly DENIED as moot.

25
26 ³ Because oral argument would not have been of material assistance, the Court ordered this
matter submitted on the briefs. ECF No. 19; see E.D. Cal. Local Rule 230(g).

27 ⁴ The following statement of facts is based on the allegations in Plaintiffs’ FAC.

28 ⁵ The Court recounts the relevant background facts in reverse-chronological order, addressing the
more recent incident first, because Plaintiffs have done so in the FAC.

1 Traci, who was not at home, telling her that Nathaniel had hit her. Traci returned to the
2 house and called the Vacaville Police Department (“VPD”), who responded and spoke to
3 the PHH. VPD declined to arrest the father, but he nonetheless agreed to leave the
4 home for the night, and PHH stayed with family members.

5 The following day, PHH informed Traci that her father had been sexually abusing
6 her for several months, after which Traci and PHH confronted Nathaniel, with Traci
7 threatening to call the police. Apparently enraged, Nathaniel attacked Traci with a knife,
8 stabbing her in the neck and stabbing PHH during the melee. Nathaniel then threatened
9 to kill everyone in the home, retrieved a gas can from the garage, poured gasoline
10 around the house, set it on fire, and fled the scene. Traci and all of the children were
11 able to escape the burning building.

12 VPD and Child Protective Services (“CPS”) personnel, including Hardwick and
13 Hopper, responded to the scene. Traci and two children were taken to the hospital for
14 medical care, while the four remaining children were taken to the VPD station. In the
15 meantime, shortly after Nathaniel fled the burning house, he was killed, thus eliminating
16 any threat he posed to the children.

17 On January 15, 2019, Hardwick interviewed PHH, who was still hospitalized.
18 According to Plaintiffs, VPD personnel Hardwick and Hopper, along with County
19 personnel English, Miller, and Medrano, then agreed to take the children into custody
20 even though they had not sought a warrant. Various adult relatives or other potential
21 caretakers were present and willing to take the children, but CPS and VPD personnel
22 arranged for them to be transported to foster homes instead. Later that day, Miller
23 conducted further interviews with the children, two VPD detectives, and Traci as well.

24 On January 16, 2019, Miller signed and Medrano approved a Detention Report,
25 setting forth the reasons for removal of the children and the social worker’s
26 recommendations, which, as relevant here, was to keep the children in foster care.
27 According to Plaintiffs, the report was flawed because it omitted that Nathaniel no longer
28 posed a threat and that various adults had offered to take the children.

1 On January 18, 2019, the juvenile court held a detention hearing. Following the
2 hearing, an adult female believed by Plaintiffs to be CPS employee Scandalis-Dempsey
3 transported Plaintiffs JDH and NHH back to their foster homes. On February 6, 2019,
4 Traci was released from the hospital, and eventually, on April 5, 2019, the juvenile court
5 ordered the children returned to Traci.

6 **B. 2015 Incident**

7 Previously, on December 1, 2015, CPS and VPD personnel (including named and
8 Doe Defendants) had responded to 1253 Alderwood Way, Vacaville, to investigate the
9 children's housing conditions. Those personnel determined that the house was
10 unlivable, lacked running water, was infested with insects and pests, and was dangerous
11 and unsanitary. Plaintiffs allege that they informed Defendants that they did not live in
12 the home. CPS personnel nonetheless took custody of five of the children without a
13 warrant, allowing Ricky to go with a maternal aunt. Traci was arrested at the scene.

14 Lopez prepared a police report regarding the incident, and Rochlitz prepared a
15 Detention Report, which was signed by Okada. Both reports were submitted to the
16 juvenile court for consideration. The juvenile court initially ordered that the children
17 remain in custody, but it later dismissed the case. Plaintiffs now allege that the police
18 report and Detention Report contained material falsehoods and omissions and they raise
19 a number of claims arising out of all of the foregoing events, all of which Defendants
20 move to dismiss.

21
22 **STANDARD**

23
24 On a motion to dismiss for failure to state a claim under Federal Rule of Civil
25 Procedure 12(b)(6), all allegations of material fact must be accepted as true and
26 construed in the light most favorable to the nonmoving party. Cahill v. Liberty Mut. Ins.
27 Co., 80 F.3d 336, 337-38 (9th Cir. 1996). Rule 8(a)(2) "requires only 'a short and plain
28 statement of the claim showing that the pleader is entitled to relief' in order to 'give the

1 defendant fair notice of what the . . . claim is and the grounds upon which it rests.” Bell
2 Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41,
3 47 (1957)). A complaint attacked by a Rule 12(b)(6) motion to dismiss does not require
4 detailed factual allegations. However, “a plaintiff’s obligation to provide the grounds of
5 his entitlement to relief requires more than labels and conclusions, and a formulaic
6 recitation of the elements of a cause of action will not do.” Id. (internal citations and
7 quotation marks omitted). A court is not required to accept as true a “legal conclusion
8 couched as a factual allegation.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting
9 Twombly, 550 U.S. at 555). “Factual allegations must be enough to raise a right to relief
10 above the speculative level.” Twombly, 550 U.S. at 555 (citing 5 Charles Alan Wright &
11 Arthur R. Miller, Federal Practice and Procedure § 1216 (3d ed. 2004) (stating that the
12 pleading must contain something more than “a statement of facts that merely creates a
13 suspicion [of] a legally cognizable right of action”)).

14 Furthermore, “Rule 8(a)(2) . . . requires a showing, rather than a blanket
15 assertion, of entitlement to relief.” Twombly, 550 U.S. at 555 n.3 (internal citations and
16 quotation marks omitted). Thus, “[w]ithout some factual allegation in the complaint, it is
17 hard to see how a claimant could satisfy the requirements of providing not only ‘fair
18 notice’ of the nature of the claim, but also ‘grounds’ on which the claim rests.” Id. (citing
19 Wright & Miller, supra, at 94, 95). A pleading must contain “only enough facts to state a
20 claim to relief that is plausible on its face.” Id. at 570. If the “plaintiffs . . . have not
21 nudged their claims across the line from conceivable to plausible, their complaint must
22 be dismissed.” Id. However, “[a] well-pleaded complaint may proceed even if it strikes a
23 savvy judge that actual proof of those facts is improbable, and ‘that a recovery is very
24 remote and unlikely.’” Id. at 556 (quoting Scheuer v. Rhodes, 416 U.S. 232, 236
25 (1974)).

26 A court granting a motion to dismiss a complaint must then decide whether to
27 grant leave to amend. Leave to amend should be “freely given” where there is no
28 “undue delay, bad faith or dilatory motive on the part of the movant, . . . undue prejudice

1 to the opposing party by virtue of allowance of the amendment, [or] futility of the
2 amendment” Foman v. Davis, 371 U.S. 178, 182 (1962); Eminence Capital, LLC v.
3 Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003) (listing the Foman factors as those to
4 be considered when deciding whether to grant leave to amend). Not all of these factors
5 merit equal weight. Rather, “the consideration of prejudice to the opposing party . . .
6 carries the greatest weight.” Id. (citing DCD Programs, Ltd. v. Leighton, 833 F.2d 183,
7 185 (9th Cir. 1987)). Dismissal without leave to amend is proper only if it is clear that
8 “the complaint could not be saved by any amendment.” Intri-Plex Techs. v. Crest Group,
9 Inc., 499 F.3d 1048, 1056 (9th Cir. 2007) (citing In re Daou Sys., Inc., 411 F.3d 1006,
10 1013 (9th Cir. 2005); Ascon Props., Inc. v. Mobil Oil Co., 866 F.2d 1149, 1160 (9th Cir.
11 1989) (“Leave need not be granted where the amendment of the complaint . . .
12 constitutes an exercise in futility”)).

14 ANALYSIS

16 A. Claim One: Violation of Rights to Familial Association (2019)

17 Plaintiffs first assert a claim against City employees Hardwick and Harper and
18 County employees English, Miller, and Medrano under 42 U.S.C. § 1983 for violating the
19 rights of familial association under the Fourth and Fourteenth Amendments for the
20 removal of the children in 2019. The Court addressed substantially similar arguments
21 with regards to the sufficiency of Plaintiffs’ original Complaint, reasoning:

22 Plaintiffs fail to sufficiently state claims under both the Fourth
23 and Fourteenth Amendments. Regarding the 2019 Removal,
24 Plaintiffs failed to establish there was no reasonable cause to
25 believe the children were in imminent danger at the time of
26 separation. Given the facts surrounding the stabbings, arson,
27 and hospitalizations of Traci and one of her children, there
28 clearly was an emergency at the time [County] Defendants
took temporary custody of the minors. Plaintiffs argue that
Nathaniel was killed shortly after he fled the home, thus the
threat to the children was eliminated; however, there is nothing
to suggest that [County] Defendants were aware of Nathaniel’s
death when they took the children.

1 ECF No. 12, at 8 (footnote omitted). The allegations in the FAC are materially the same
2 and the Court thus concludes once again that Plaintiffs have failed to state a claim.

3 Indeed, Plaintiffs' only new averments are conclusory statements going to
4 Defendants presumed "knowledge" that there was purportedly time to obtain a warrant or
5 that Nathaniel no longer posed a threat and that because "the children were safely out of
6 the fire," there were no exigent circumstances remaining.⁶ FAC, ¶¶ 119-20. These
7 allegations are undermined, however, by Plaintiffs' own recitation of the facts. According
8 to Plaintiffs, PHH had just revealed that she had suffered ongoing sexual abuse, PHH
9 and Traci had barely survived a knife attack, the entire family had narrowly escaped their
10 burning home, and Traci remained hospitalized. These facts, taken together, establish
11 reasonable cause to remove the children from Traci's custody. See, e.g., Wallis v.
12 Spencer, 202 F.3d 1126, 1138 (9th Cir. 2000) (collecting cases). Accordingly, Plaintiffs
13 have failed to state a claim as to how Defendants actually or proximately caused any of
14 their injuries. Given the rapidly evolving, violent and chaotic situation from which these
15 children were removed, and the fact that Plaintiffs apparently cannot allege additional
16 facts capable of stating a claim, further amendment would be futile. Plaintiffs' first cause
17 of action is DISMISSED without leave to amend.

18 **B. Claim Two: Violation of Rights to Familial Association (2015)**

19 Defendants contend, very generally, that they weren't involved in the 2015
20 removal of the children and regardless the seizure was reasonable in any event. This
21 Court agrees.

22 Plaintiffs acknowledge that when Defendants inspected their home in 2015, it was
23 unlivable with no running water, infestations, and other unsanitary conditions, and Traci
24 was arrested at the scene. The arrest, in conjunction with the admittedly atrocious
25 conditions of the home, establish not only reasonable cause to believe that seizure of

26
27 ⁶ Even if Defendants were aware that Nathaniel had been killed, it would have still been
28 reasonable, based on the hectic and violent situation unfolding in real-time, to determine that the children
were safer in government custody, especially since Traci remained hospitalized with grave injuries. See,
e.g., Keates v. Koile, 883 F.3d 1228, 1237-38 (9th Cir. 2018).

1 the children was necessary, but that immediate seizure was required. See Gomes v.
2 Santa Clara Cty., No. 5:18-CV-04191-EJD, 2020 WL 4747901, at *8 (N.D. Cal. Aug. 17,
3 2020) (distinguishing Rogers v. Cty. of San Joaquin, 487 F.3d 1288 (9th Cir. 2007), on
4 its facts and finding that exigencies existed to justify warrantless removal); cf. Rogers,
5 487 F.3d at 1293 (providing no indication that the parents were arrested during the
6 seizure of children).

7 Furthermore, while Plaintiffs aver that Traci and the children did not in fact live in
8 the home, they also allege that the truck full of their possessions was towed from the
9 front of the residence, indicating that if they weren't living there now, it was because they
10 were just leaving. Regardless, it was reasonable for Defendants to infer that Plaintiffs
11 were residing there and to conclude that the conditions warranted removal.

12 As with the first cause of action, despite being granted the opportunity to amend,
13 Plaintiffs have still failed to allege that Defendants acted in an objectively unreasonable
14 manner in taking custody of the children in the face of exigencies presented. Further
15 amendment would thus be futile and Defendants' Motions to Dismiss the second cause
16 of action are GRANTED without leave to amend.

17 **C. Claims Three and Four: Unlawful Seizure**

18 Defendants next contend that Claims Three and Four fail with Claims One and
19 Two because the seizure of the children was objectively reasonable under the
20 circumstances. For the reasons already stated, the Court agrees. See Loftis v. Ramos,
21 No. 16-CV-02300-MMA (MSB), 2019 WL 1040333, at *10 n.10 (S.D. Cal. Mar. 5, 2019).
22 The Court also further finds that no additional amendment will cure these deficiencies.
23 Accordingly, Plaintiffs' third and fourth causes of action are DISMISSED without leave to
24 amend as well.

25 **D. Claims Five and Six: Judicial Deception**

26 Defendants move to dismiss these claims in the FAC on the basis that Plaintiffs
27 have not alleged they made any material misrepresentations or omissions or how any
28 such statements or omissions would have been material. They further contend that

1 Plaintiffs have once again failed to state a claim because they do not allege the
2 existence of any judicial removal order pertaining to the 2019 removal of the children. In
3 its previous Order, this Court dismissed Claims Five and Six with leave to amend,
4 advising:

5 To state a claim for judicial deception under § 1983, the plaintiff
6 must show that the investigator made deliberately false
7 statements or recklessly disregarded the truth and that the
8 falsifications were material. Galbraith v. Cty. of Santa Clara,
9 307 F.3d 1119, 1126 (9th Cir. 2002). A statement is “material
10 to the granting of [a] removal order if the juvenile court would
11 have declined to issue the order had [the defendant] been
12 truthful.” Sigal v. Cty. of Los Angeles, No. 2:17-CV-04851-
13 RGK-AGR, 2018 WL 5899636, at *4 (C.D. Cal. Jan. 17, 2018);
14 Butler v. Elle, 281 F.3d 1014, 1026 (9th Cir. 2002).

15 Regarding both the 2015 and 2019 Removals, Plaintiffs fail to
16 demonstrate that these alleged lies, misrepresentations, or
17 omissions were material to the granting of a removal order or
18 that the juvenile court would not have issued the removal order
19 had the information been truthful.

20 ECF No. 12, at 9 (footnote omitted). This same reasoning remains applicable because
21 the material facts set forth in the FAC are largely unchanged.

22 First, the FAC is silent as to whether any judicial removal order was issued in
23 2019 in the first place. If a 2019 judicial order of removal existed, Plaintiffs should have
24 been able to allege such facts in their FAC, especially after specifically being put on
25 notice by the Court that this is a critical issue. See ECF No. 12, at 9. Absent such an
26 order, the Court struggles to determine the materiality of any lies or omissions, assuming
27 they exist, and how they impacted removal proceedings.

28 Regardless, none of the “deceptions” purportedly identified by Plaintiffs appear to
be either false or material. Government officials opined that Traci failed to protect her
children and needed help doing so, which based on the facts set forth above, was a
reasonable assessment in both 2015 and 2019. Although Plaintiffs contend Defendants
should have notified the courts that other adults were offering to take the children, there
is nothing in the FAC from which the Court might infer that it was unreasonable to place
the children with known foster parents rather than unknown persons who happened to

1 be at the scene. Other than that, Plaintiffs just refer generally and without elaboration to
2 the existence of some unidentified “material misrepresentations or omissions” or do not
3 allege any facts to indicate that individual Defendants had any interactions with a court.

4 Despite having been granted the opportunity to amend, Plaintiffs have failed to
5 expand on their original allegations in any useful way. Nor do they contend there is
6 anything further they might add that would change the Court’s conclusion. Accordingly,
7 Defendants’ Motions to Dismiss Plaintiffs’ Fifth and Sixth Claims are GRANTED without
8 leave to amend.

9 **F. Claims Twelve and Thirteen: Monell Liability**

10 Plaintiffs’ claims against the entity Defendants fail with the underlying
11 constitutional causes of action. Municipalities and local officials cannot be vicariously
12 liable for the conduct of their employees under § 1983, but rather are only “responsible
13 for their own illegal acts.” Connick v. Thompson, 563 U.S. 51, 60 (2011) (quoting
14 Monell v. Dep’t of Soc. Servs. of City of New York, 436 U.S. 658, 665-83 (1978)). In
15 other words, a municipality may only be liable where it individually caused a
16 constitutional violation via “execution of government’s policy or custom, whether by its
17 lawmakers or by those whose edicts or acts may fairly be said to represent official
18 policy.” Monell, 436 U.S. at 694. “To establish municipal liability under Monell, [a
19 plaintiff] must prove that (1) he was deprived of a constitutional right; (2) the municipality
20 had a policy; (3) the policy amounted to deliberate indifference to [plaintiff’s]
21 constitutional right; and (4) the policy was the moving force behind the constitutional
22 violation.” Lockett v. Cty. of Los Angeles, 977 F.3d 737, 741 (9th Cir. 2020). “Monell
23 claims thus require a plaintiff to show an underlying constitutional violation.” Id.

24 Because Plaintiffs have failed to adequately allege a predicate constitutional
25 violation against the County or the City, their Monell claims fail as well See City of
26 Canton, Ohio v. Harris, 489 U.S. 378, 385 (1989) (“[O]ur first inquiry in any case alleging
27 municipal liability under § 1983 is the question whether there is a direct causal link
28 between a municipal policy or custom and the alleged constitutional deprivation.”);

1 Capp v. Cty. of San Diego, 940 F.3d 1046, 1061 (9th Cir. 2019). Accordingly, Claims
2 Twelve and Thirteen are DISMISSED without leave to amend.

3 **G. Claims Nine, Ten, and Eleven: State law claims**

4 Plaintiffs' federal claims having been dismissed, the Court declines to exercise
5 supplemental jurisdiction over the remaining state law causes of action. Those claims
6 are hereby DISMISSED.

7

8 **CONCLUSION**

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10 In consideration of the foregoing, Defendants' Motions to Dismiss (ECF Nos. 17,
11 18) are GRANTED consistent with the foregoing. All of Plaintiffs' federal claims are
12 DISMISSED without leave to amend, and the Court declines to exercise supplemental
13 jurisdiction over Plaintiffs' state law causes of action. The Clerk of the Court is directed
14 to close this case.

15 IT IS SO ORDERED.

16 Dated: April 23, 2021

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19 MORRISON C. ENGLAND, JR.
20 SENIOR UNITED STATES DISTRICT JUDGE

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