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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JEFF RAGAN, et al.,
Plaintiffs,
v.
COUNTY OF HUMBOLDT
DEPARTMENT OF HEALTH AND
HUMAN SERVICES, et al.,
Defendants.

Case No. [16-cv-05580-RS](#)

**ORDER GRANTING MOTION TO
DISMISS**

I. INTRODUCTION

This action arises out of the removal of a minor child, J.H., from the custody of her former legal guardians and prospective adoptive parents, Plaintiffs Jeff and Janine Ragan. The state court conducted a juvenile dependency proceeding and decided J.H. should be removed from her guardians' custody and placed in the care of Humboldt County. Plaintiffs appealed that decision to the California Court of Appeal but failed to file an opening brief, so the appeal was dismissed. Plaintiffs then filed this action asserting various constitutional violations and state law torts arising out of the agency adoption process, the removal of J.H. from their custody, and the state court dependency proceedings. Defendants move to dismiss or, alternatively, for summary judgment. For the reasons discussed below, Plaintiffs' constitutional claims are barred, at least in part, by the Rooker-Feldman doctrine and otherwise fail to state a claim for relief. The complaint is thus dismissed with only limited leave to amend.

II. BACKGROUND

1 health crisis center in Santa Rosa. There, she was tentatively diagnosed with depression and
2 various personality disorders and referred to residential treatment. Plaintiffs contacted California
3 Department of Social Services to inquire if AAP funding could be used to help cover the cost of
4 residential treatment. On January 26, 2016, Adoptions Specialist Carolyn Perkins, an employee of
5 that department, sent Plaintiffs a letter stating that an agency adoption was appropriate in order to
6 access AAP funding for J.H.'s medical needs.

7 In February 2015, Plaintiffs contacted Schrock to discuss options for funding J.H.'s
8 residential treatment program. Schrock recommended they relinquish guardianship of J.H. and
9 then seek for J.H. to be placed in their home as a non-relative extended family member. On
10 March 30, 2015, J.H. was released from psychiatric care as the available insurance would not
11 cover any further treatment. In May 2015, Schrock performed a bi-annual guardianship home visit
12 and no problems were noted. In July 2015, a juvenile dependency court ordered that Henderson's
13 rights be terminated. Plaintiffs transmitted this order to Schrock and requested adoption through
14 the County. They also requested an immediate update to the previous home study because the
15 home study from 2010 was only valid for five years and would expire in September 2015. In
16 August 2015, Plaintiffs filed for agency adoption. Schrock took no immediate action. In October
17 2015, the County notified Plaintiffs that they were ineligible for agency adoption, but advised they
18 could proceed with an independent adoption, which would eliminate the possibility of AAP
19 funding.

20 In November 2015, the juvenile dependency court ordered the County to grant an agency
21 adoption, complete an abbreviated home study no later than December 22, 2015, and grant AAP
22 funding to Plaintiffs. In December 2015, the County reported that they lost the original home
23 study and Plaintiffs' entire file. Humbolt also represented to the juvenile dependency court that it
24 tried to speak with the minor children at Plaintiffs' residence but Plaintiffs denied them access.

25 On January 4, 2016, Mr. Ragan underwent hip surgery. On January 7, 2016, J.H.
26 threatened suicide and was placed in an adolescent hospital in San Francisco. She was released
27 from the hospital on January 10, 2016. The County contacted Plaintiffs and informed them that if

1 they did not pick up J.H. from the adolescent hospital immediately, they would be charged with
2 neglect. Plaintiffs did not pick up J.H. because of Mr. Ragan’s recent hip surgery and because
3 they could not care for her in a mental health crisis. J.H. spoke with Ann Seaquist, a social
4 worker, who told her that Plaintiffs were being investigated for neglect. On January 15, 2016, J.H.
5 was taken into custody and placed in foster care. Plaintiffs were charged with severe emotional
6 abuse, neglect, and abandonment. On or about February 24, 2016, the County dropped those
7 charges, and agreed to perform an abbreviated home study for Plaintiffs to proceed with the
8 agency adoption.

9 B. Juvenile Dependency Proceedings

10 In California, dependency proceedings in the juvenile court are special proceedings
11 governed by their own set of rules as set forth in the Welfare and Institutions Code (“WIC”). See
12 *Belinda K. v. Baldovinos*, No. 10–CV–02507–LHK, 2012 WL 464003, at *1–2 (N.D. Cal. Feb. 13,
13 2012). Section 300 of the WIC describes situations that will bring a child within the jurisdiction
14 of the juvenile court for dependency proceedings. A dependency proceeding may be initiated
15 when the Department of Child and Family Services files a petition attesting that the child falls
16 within the scope of WIC § 300. Upon the filing of a petition, the juvenile court holds a detention
17 hearing to determine whether the child requires emergency removal from the home, followed
18 shortly thereafter by a jurisdictional hearing to determine whether the allegations in the petition
19 are true, in which case the child is declared a dependent of the juvenile court. If the court finds
20 that it has jurisdiction over the child under WIC § 300, it then conducts a disposition hearing to
21 determine whether the child may remain in the home under court supervision, or whether the child
22 must be removed from the home, requiring “family reunification services” for twelve months after
23 the child enters foster care. See *id.* (citing WIC §§ 358, 361.5(a)(1)(A), 362). The juvenile court
24 continues to monitor the family’s progress on the case plan by holding status review hearings
25 every six months. See *id.* (citing WIC § 366(a)(1)). If by the twelve month review the court does
26 not return the child, and if the court further determines by clear and convincing evidence that
27 reasonable reunification services have been provided or offered to the parents but that there is no
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1 substantial probability of return within 18 months of removal, then WIC § 366.26 requires the
2 court to terminate reunification services and set the matter for a permanency hearing. See *id.*
3 (citing WIC §§ 366.21, 366.26). At that hearing, the court selects and implements a permanent
4 plan. See *id.* (citing WIC § 366.26).

5 Here, Humbolt filed a petition, on behalf of J.H., requesting that she be declared a
6 dependent of the court on January 20, 2016. The petition alleged that the jurisdiction and
7 dependency were warranted because the Ragans were unable to meet J.H.’s emotional needs and
8 unable or unwilling to have J.H. returned to their care. The petition was accompanied by a social
9 worker’s Detention Report, which noted that Seaquist visited the Ragans’ home but was not
10 allowed to speak with J.H. and that J.H. subsequently called Seaquist to say that she did not want
11 to be adopted by the Ragans. The report found that reasonable efforts had been made to prevent or
12 eliminate the need for removal, and recommended that J.H. be temporarily placed in the custody
13 of the County. An arraignment hearing was held on January 21, 2016. The Ragans and Humbolt
14 were represented by counsel and the court appointed counsel for J.H. The court adopted the
15 interim findings and orders as recommended in the Detention Report, including that J.H. be
16 temporarily placed in residential treatment, that the Ragans be provided parental education and
17 counseling to facilitate reunification efforts, and that the Ragans be permitted to visit J.H. at least
18 twice a week. A detention hearing was held on January 25, 2016 and the court again adopted the
19 interim findings and orders consistent with its previous interim order.

20 A jurisdiction hearing was held on February 10, 2016. Plaintiffs argued that the
21 Department’s “lack of cooperation and neglectful actions have caused delays and further harm to
22 the minor,” and asserted that Child Welfare Services (“CWS”) “exacerbated [J.H.’s] conflict with
23 the Ragans, continued to destabilize her mental health and facilitated her distortion of her
24 circumstances.” RJN, Ex. G. On February 23, 2016, a social worker filed an Amended
25 Jurisdictional Report which stated, per the parties’ stipulation, that despite their best efforts, the
26 Ragans could not meet J.H.’s emotional needs. On February 24, 2016, the court assumed
27 jurisdiction based on the information in the Amended Jurisdictional Report.

1 Procedure tests the legal sufficiency of the claims alleged in the complaint. See *Parks Sch. of*
2 *Bus., Inc. v. Symington*, 51 F.3d 1480, 1484 (9th Cir. 1995). Dismissal under Rule 12(b)(6) may
3 be based either on the “lack of a cognizable legal theory” or on “the absence of sufficient facts
4 alleged under a cognizable legal theory.” *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699
5 (9th Cir. 1990). When evaluating such a motion, the court must accept all material allegations in
6 the complaint as true, even if doubtful, and construe them in the light most favorable to the non-
7 moving party. *Twombly*, 550 U.S. at 570. “[C]onclusory allegations of law and unwarranted
8 inferences are insufficient to defeat a motion to dismiss for failure to state a claim.” *Epstein v.*
9 *Wash. Energy Co.*, 83 F.3d 1136, 1140 (9th Cir. 1996); see also *Iqbal*, 556 U.S. at 678
10 (“threadbare recitals of the elements of the claim for relief, supported by mere conclusory
11 statements,” are not taken as true).

12 IV. DISCUSSION

13 In their motion to dismiss, Defendants argue that Plaintiffs claims are barred by issue
14 preclusion, the family law exception to jurisdiction, and the Younger abstention doctrine. While
15 Defendants correctly intuit that this action is ill-suited for federal court, the more relevant
16 abstention doctrine appears to be *Rooker-Feldman*, given that Plaintiffs filed this lawsuit after the
17 state court rendered its judgment and complain of injuries stemming from that judgment.² The
18 claims that are not barred by *Rooker-Feldman* fail for other reasons.

19 A. Rooker Feldman

20 The *Rooker-Feldman* doctrine precludes federal courts from hearing “cases brought by
21 state-court losers complaining of injuries caused by state-court judgments rendered before the
22 district court proceedings commenced and inviting district court review and rejection of those
23 judgments.” *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). It
24 prohibits direct appeals from the final judgment of a state court and “may also apply where the
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26 ² While Defendants do not raise the applicability of *Rooker-Feldman*, courts may invoke the
27 doctrine sua sponte because it relates to subject matter jurisdiction. See *Worldwide Church of*
28 *God v. McNair*, 805 F.2d 888, 890 (9th Cir. 1986).

1 parties do not directly contest the merits of a state court decision, as the doctrine prohibits a
2 federal district court from exercising subject matter jurisdiction over a suit that is a de facto appeal
3 from a state court judgment.” *Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 859 (9th Cir. 2008).
4 In short, “[i]f a federal plaintiff asserts as a legal wrong an allegedly erroneous decision by a state
5 court, and seeks relief from a state court judgment based on that decision, Rooker–Feldman bars
6 subject matter jurisdiction in federal district court. If, on the other hand, a federal plaintiff asserts
7 as a legal wrong an allegedly illegal act or omission by an adverse party, Rooker–Feldman does
8 not bar jurisdiction.” *Noel v. Hall*, 341 F.3d 1148, 1164 (9th Cir. 2003).

9 “[A] federal district court dealing with a suit that is, in part, a forbidden de facto appeal
10 from a judicial decision of a state court must refuse to hear the forbidden appeal. As part of that
11 refusal, it must also refuse to decide any issue raised in the suit that is ‘inextricably intertwined’
12 with an issue resolved by the state court in its judicial decision.” *Doe v. Mann*, 415 F.3d 1038,
13 1043 (9th Cir. 2005). The Rooker–Feldman doctrine applies not only to final state court orders
14 and judgments, but to interlocutory orders and non-final judgments issued by a state court as well.
15 *Doe & Assoc. Law Offices v. Napolitano*, 252 F.3d 1026, 1030 (9th Cir. 2001).

16 Here, Plaintiffs’ suit is barred, in part, by the Rooker-Feldman doctrine. Plaintiffs claim
17 their due process rights were violated because they were “never given a fair opportunity to retain
18 and maintain custody of J.H.” and prevented from “receiving a fundamentally fair, orderly, and
19 just judicial proceeding.” Comp. ¶¶ 97, 101. Plaintiffs also claim a Fourth Amendment violation
20 for the “wrongful taking of a minor” because Defendants “caused [J.H.] to be removed from
21 [their] legal custody.” *Id.* ¶ 105. These claims invite review of the juvenile dependency
22 proceeding.

23 Plaintiffs’ also allege that Defendants presented fabricated evidence to the court and
24 refused to provide exculpatory evidence throughout the dependency proceedings. Comp. ¶¶ 78,
25 99. These allegations raise issues that are “inextricably intertwined” with the juvenile dependency
26 proceeding. See, e.g., *Ismail v. County of Orange*, 2012 WL 3644170 (C.D. Cal. June 11, 2012).
27 While there is an exception to the Rooker–Feldman doctrine for allegations of extrinsic fraud,

1 Plaintiffs do not appear to allege extrinsic fraud here. Extrinsic fraud is “conduct which prevents a
2 party from presenting his claim in court.” *Wood v. McEwen*, 644 F.2d 797, 801 (9th Cir. 1981);
3 see also *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (allegations of extrinsic fraud require “the
4 investigation of a new case arising upon new facts”). Plaintiffs raise the same factual disputes
5 previously raised in the dependency proceeding. See, e.g., *RJN. Exs. G, S and L*. They do not
6 allege that Defendants committed any fraud that they were prevented from challenging in the
7 proceedings. *Contra Kougasian*, 359 F.3d at 1138. Thus, Plaintiffs’ allegations do not fit within
8 the extrinsic fraud exception.

9 It is immaterial that the Ragans bring “an indirect challenge based on constitutional
10 principles.” *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003); see also *Sample v.*
11 *Monterey Cnty. Family & Children Servs.*, 2009 WL 2485748 at *3 (N.D. Cal. 2009) (“Although
12 [plaintiff] asks for monetary damages, she would only receive a damage award if this court
13 determined that the Dependency Court’s decisions pertaining to the custody of her children—
14 including any review or authorization of defendants’ actions—were in error. Accordingly, to
15 evaluate her claims and grant her the relief she requests, this court would have no choice but to
16 review and reject the state Dependency Court’s decision, including its acceptance of Monterey
17 County’s removal actions.”); *Grimes v. Alameda County Social Servs.*, 2011 WL 4948879, at *3
18 (N.D. Cal. Oct. 18, 2011) (“Even if plaintiff were to abandon his request for the return of his
19 children and instead pursue only money damages, his claims still would require review of the
20 relevant state-court decisions. Such review is barred. Even though plaintiff nominally asserts
21 claims for alleged civil rights violations, his pleading is de facto an improper collateral attack on
22 unfavorable state-court rulings.”). To the extent Plaintiffs’ first, third, and fourth causes of action
23 are based on errors in the juvenile dependency proceeding, they are barred and dismissed without
24 leave to amend.³

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26 ³ The determination that subject matter jurisdiction is inappropriate is only bolstered by the fact
27 that the state judgment at issue involves a custody matter. “The whole subject of the domestic
28 relations of husband and wife, parent and child, belongs to the laws of the States and not to the
laws of the United States.” *Ex parte Burrus*, 136 U.S. 586, 593–94 (1890).

1 Not all of Plaintiffs’ constitutional claims, however, are barred by the Rooker-Feldman
2 doctrine. See Noel, 341 F.3d at 1156 (“[W]here the federal plaintiff does not complain of a legal
3 injury caused by a state court judgment, but rather of a legal injury caused by an adverse party,
4 Rooker—Feldman does not bar jurisdiction.”) For example, Plaintiffs allege that Defendants’
5 violated their First Amendment rights by retaliating against them. While they allege this
6 retaliation occurred “through the juvenile dependency court” and rely on some of the same facts
7 discussed above, see, e.g., Comp. ¶¶ 105-106, they appear to limit their claim to events preceding
8 the juvenile dependency proceedings, primarily Defendants’ conduct during the agency adoption
9 process. See id. ¶ 93(a)-(h). Their Monell claim is similarly pleaded. See id. ¶ 113(a)-(e).⁴

10 Moreover, some of their federal claims are only barred in part. Read with the requisite
11 liberality, Plaintiffs’ Fourth Amendment and familial interference claims appear vaguely based, in
12 part, on allegations regarding J.H.’s initial seizure, see, e.g., id. ¶¶ 78, 104, which are also not
13 inextricably intertwined with the juvenile dependency proceedings. See, e.g., Ybarra-Johnson v.
14 Arizona, 2014 WL 583358 (D. Arizona Nov. 12, 2014) (“[W]hile this Court is precluded from
15 assessing whether Plaintiff’s parental rights should have been terminated, Rooker-Feldman does
16 not bar Plaintiffs’ claims concerning whether the initial seizure of the children and subsequent
17 CPS investigation was conducted in a reasonable and unbiased fashion.”). To the extent
18 Plaintiffs’ claims are based on the Defendants’ unlawful conduct, separate and apart from any
19 legal errors committed in the juvenile dependency proceedings, they are not barred by Rooker-
20 Feldman and are thus discussed below. See Noel, 341 F.3d at 1164.

21 B. Remaining Federal Claims

22 1. Familial Association

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25 ⁴ Although Plaintiffs’ due process claim includes some stray allegations regarding delays in the
26 adoption process, the injury alleged is that, “[a]s a result of [] Defendants’ actions, Plaintiffs
27 [were] never given a fair opportunity to retain and maintain custody of J.H.” Comp. ¶ 101.
28 Accordingly, it is difficult to see how their due process claim is anything but “inextricably
intertwined” with the state juvenile proceedings. That claim is thus dismissed in its entirety
without leave to amend.

1 Plaintiffs allege that Defendants violated their right to familial association in part by
2 unlawfully seizing J.H. without proper justification or authority and without probable cause,
3 exigency, or court order. They bring this cause of action against all individual defendants.
4 Defendants argue that they are protected by the doctrine of qualified immunity because
5 prospective adoptive parents do not have a clearly established constitutional right to familial
6 association.

7 Government officials who perform discretionary functions are generally immune to
8 liability for civil damages “insofar as their conduct does not violate clearly established statutory or
9 constitutional rights of which a reasonable person would have known.” *Harlow v. Fitzgerald*, 457
10 U.S. 800, 818 (1982). In deciding whether to grant qualified immunity, a court must determine (a)
11 whether the alleged facts make out a constitutional violation, and (b) whether the constitutional
12 right at issue was clearly established at the time of the violation. *Saucier v. Katz*, 533 U.S. 194,
13 201 (2001).

14 Plaintiffs have failed to show that their constitutional rights to familial association were
15 “clearly established.” Indeed, the Ninth Circuit recently held in an unpublished opinion that, even
16 if it could be established that foster parents were deprived of their custody of their foster child
17 without notice or an opportunity to object, they could not demonstrate that their custody of their
18 foster child was a liberty interest protected by the due process clause. See *Huk v. County of Santa*
19 *Barbara*, 650 Fed. Appx. 365, 367 (9th Cir. May 17, 2016). It reasoned that, under California
20 law, a social worker’s removal authority is highly discretionary and not governed by objective and
21 defined criteria, so foster parents are not entitled to the notice and grievance procedures, as a
22 matter of federal constitutional right. The Ninth Circuit noted that nothing in the record would
23 support a conclusion that appellants could be designated as “prospective adoptive parents” for
24 constitutional purposes. In so finding, it distinguished *Elwell v. Byers*, 699 F.3d 1208, 1217 (10th
25 Cir. 2012), which found a protected liberty interest where foster parents had cared for a child for
26 “nearly his entire life and were on the verge of adopting him.” Even if the facts here are more like
27 *Elwell* than *Huk*, the factual record would then raise an issue of first impression regarding the

1 constitutional rights of “prospective adoptive parents.” At minimum, the Ragans’ constitutional
2 rights to familial association are not “clearly established.” Thus, Plaintiffs’ claim based on the
3 right to familial association is dismissed without leave to amend.

4 2. Retaliation

5 In support of their First Amendment retaliation claim, Plaintiffs allege that they made
6 “repeated requests” for an agency adoption with access to AAP funding and that Defendants
7 retaliated against them as a result of those requests, including by providing inaccurate information
8 about agency adoption, threatening reunification with J.H.’s biological mother, claiming to have
9 lost Plaintiffs’ case file, telling J.H. that Plaintiffs were being investigated for abuse, and opening
10 an investigation into abuse. They bring this cause of action against all individual defendants. To
11 state a claim for retaliation for the exercise of constitutionally protected rights, a plaintiff must
12 allege: (1) that protected conduct was a “substantial” or “motivating” factor in the defendant’s
13 decision; and (2) injury stemming from the allegedly retaliatory action. See *Resnick v. Hayes*, 213
14 F.3d 443, 449 (9th Cir. 2000). Here, Plaintiffs’ allegations fall short.

15 As an initial matter, many of the allegations in the complaint refer generally to conduct by
16 “Defendants” or “the County.” Plaintiffs do not explain in sufficient detail which individual
17 defendants violated Plaintiffs’ First Amendment rights and how those rights were violated by any
18 individual defendant. Plaintiffs allege they made their repeated requests to proceed with agency
19 adoption to Schrock, but claim it was “the County” that told Plaintiffs they were ineligible for
20 adoption, “the County” that claimed Plaintiffs’ case file was lost, “the County” that claimed
21 Plaintiffs denied access to J.H. during a visit, Seaquist who told J.H. that Plaintiffs were being
22 investigated for abuse, and “the County” who informed Plaintiffs that they would be charged with
23 neglect. Comp. ¶¶ 53, 58, 59, 62, 63. The complaint includes no specific allegations related to
24 conduct by Hickenbottom or Beck. Moreover, Plaintiffs do not allege any facts to support their
25 conclusion that their protected conduct was a “substantial” or “motivating” factor in any
26 defendants’ conduct. *Mt. Healthy City School Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 287

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1 (1977). Thus, Plaintiffs’ claim for retaliation is dismissed with leave to amend. Once the factual
2 and legal basis of this claim has been clarified, the extent of issue preclusion can be evaluated.

3 3. Fourth Amendment

4 Plaintiffs allege that J.H. was unlawfully seized without a court order and without probable
5 cause in violation of their Fourth Amendment rights. Defendants argue that Plaintiffs lack
6 standing to bring a Fourth Amendment unlawful search and seizure claim on behalf of J.H. A
7 person does not generally have standing vicariously to assert the Fourth Amendment rights of
8 another person. *See Moreland v. Las Vegas Metro. Police Dep’t*, 159 F.3d 365, 369 (9th
9 Cir.1998) (“[T]he general rule is that only the person whose Fourth Amendment rights were
10 violated can sue to vindicate those rights.”); see also *Osborne v. Cnty. of Riverside*, 385 F.Supp.2d
11 1048, 1052–53 (C.D. Cal. 2005). Claims of unlawful seizure advanced by parents “should
12 properly be assessed under the Fourteenth Amendment standard for interference with the right to
13 family association.” *Wallis v. Spencer*, 202 F.3d 1126, 1137 n. 8 (9th Cir. 2000); see also *Belinda*
14 *K. v. County of Alameda*, 2011 WL 2690356, at *7 (N.D. Cal. July 8, 2011). J.H.’s seizure does
15 not implicate Plaintiffs’ Fourth Amendment rights. Thus, this claim is dismissed without leave to
16 amend.

17 4. Monell Liability

18 Plaintiffs assert a Monell claim against the County. Because Plaintiffs fail to allege any
19 individual defendant committed a constitutional violation, their separate claim under Monell also
20 fails. See *City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986) (“If a person has suffered no
21 constitutional injury at the hands of the individual police officer, the fact that the departmental
22 regulations might have authorized the use of constitutionally excessive force is quite beside the
23 point.”). In any event, Plaintiffs fail to allege a proper Monell claim.

24 A municipality may be liable under section 1983 when the enforcement of a municipal
25 policy or custom was the moving force behind the violation of a constitutionally protected right.
26 *Monell v. Dep’t of Social Servs. of the City of New York*, 436 U.S. 658, 690, 98 S.Ct. 2018, 56
27 L.Ed.2d 611 (1978). Generally, “the actions of individual employees can support liability against

1 a municipality under § 1983 only if those employees were acting pursuant to an official municipal
2 policy.” Haines, 2011 WL 6014459, at *4 (quoting Webb v. Sloan, 330 F.3d 1158, 1164 (9th Cir.
3 2003)). Even if there is no “official” policy, a plaintiff can allege liability based on employees’
4 actions under two alternative theories: (1) “if an employee commits a constitutional violation
5 pursuant to a long-standing practice or custom”; or (2) if “the person causing the violation has
6 final policymaking authority.” Id. (internal citations omitted). Examples of a “custom” include
7 that of “inaction or omission, such as a failure to train, if the failure to train amounts to deliberate
8 indifference of plaintiff’s rights.” Id.

9 Plaintiffs have insufficiently alleged a custom, policy, or practice to establish Monell
10 liability.⁵ They only plead actions related to their own experience. Moreover, Plaintiffs’
11 allegations of causation are conclusory and do not make a causal connection between any custom,
12 policy, or practice at issue and any particular violation of a constitutional right. Thus, Plaintiffs’
13 claim is dismissed with leave to amend.

14 D. State Law Claims

15 The viability of Plaintiffs’ claims under state law need not be reached unless and until
16 there is a viable federal claim stated. See 28 U.S.C. § 1367(c)(3) (providing that a district court
17 may decline to exercise supplemental jurisdiction where it “has dismissed all claims over which it
18 has original jurisdiction”); Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 351 (1988) (“[I]n the
19 usual case in which all federal-law claims are eliminated before trial, the balance of factors to be
20 considered under the pendent jurisdiction doctrine—judicial economy, convenience, fairness, and
21 comity—will point toward declining to exercise jurisdiction over the remaining state-law claims.”).

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24 ⁵ To the extent the claim is based on a “failure to train” theory of Monell liability, the claim also
25 fails. In order to establish that a municipality is liable under Monell for failure to train, plaintiffs
26 must show that a particular training deficiency was so egregious that it “amount[ed] to deliberate
27 indifference to the rights of persons with whom the police come into contact.” City of Canton v.
28 Harris, 489 U.S. 378, 388 (1989). Here, the complaint contains no allegations concerning the
County’s alleged failure to train. Plaintiffs do not allege what training the County employees
received, do not indicate that any County policymaker was aware that the training was deficient,
and, in fact, make no mention of training at all.

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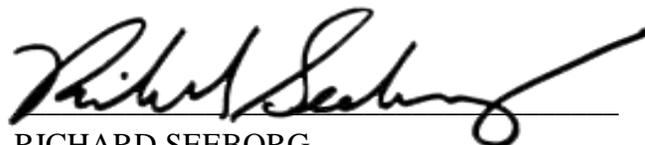
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V. CONCLUSION

For the aforementioned reasons, Plaintiffs' complaint is dismissed with limited leave to amend. Any amended complaint shall include only the claims for which dismissal is granted with leave to amend and must be filed within 21 days. Plaintiffs are cautioned that any claims in their amended complaint that fail to comply with this order will be dismissed.

IT IS SO ORDERED.

Dated: March 6, 2017



RICHARD SEEBORG
United States District Judge