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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

KATY WILLIAMS; GARY EVANS; and
Minor Plaintiffs A.C., Am.E. and Aa.E.,
by and through their Guardian Ad Litem,
JOHN GARTER,

Plaintiffs,

v.

COUNTY OF SAN DIEGO; and
COUNTY OF SAN DIEGO HEALTH
AND HUMAN SERVICES AGENCY,

Defendants.

Case No.: 17cv815-MMA (JLB)

**ORDER DENYING DEFENDANT’S
MOTION TO DISMISS
PLAINTIFFS’ CLAIM FOR
INJUNCTIVE RELIEF**

[Doc. No. 25]

Plaintiffs Katy Williams, Gary Evans, and minor plaintiffs A.C., Am.E., and Aa.E., by and through their Guardian ad Litem, John Garter (collectively, “Plaintiffs”) have filed their First Amended Complaint (“FAC”) against Defendant County of San Diego¹ (“Defendant”) alleging: (1) a *Monell* claim based upon violations of Plaintiffs’ First, Fourth, and Fourteenth Amendment rights pursuant to 42 U.S.C. § 1983; and (2) injunctive relief. *See* FAC. Defendant moves to dismiss Plaintiffs’ amended claim for

¹ The County was also erroneously sued as “San Diego Health and Human Services Agency.”

1 injunctive relief pursuant to Federal Rule of Civil Procedure 12(b)(6).² See Doc. No. 25.
2 Plaintiffs filed an opposition, to which Defendant replied. See Doc. Nos. 26, 27. The
3 Court found the matter suitable for determination on the papers and without oral
4 argument pursuant to Civil Local Rule 7.1.d.1. Doc. No. 28. For the reasons set forth
5 below, the Court **DENIES** Defendant’s motion.

6 **BACKGROUND**³

7 Plaintiff Katy Williams (“Williams”) is the natural mother of A.C., Am.E., and
8 Aa.E (“Minor Plaintiffs”). FAC ¶ 8. Williams has another minor child, D.C., who is not
9 a plaintiff in this action. *Id.* Plaintiff Gary Evans (“Evans”) is the natural father of
10 Am.E. and Aa.E. *Id.* ¶ 9. Williams and Evans share custody of Am.E. and Aa.E, and
11 Williams has sole custody of A.C. *Id.* ¶¶ 10-11. On April 24, 2017, the Court appointed
12 Mr. John Garter as Guardian ad Litem for Minor Plaintiffs. See Doc. No. 4.

13 In 2013, Defendant first became acquainted with Williams and her children after
14 an incident involving D.C.’s father, Jason Clark (“Clark”). *Id.* ¶ 12. Clark became
15 violent with Williams and threatened to kill her. *Id.* As a result, Williams obtained a
16 restraining order against Clark. *Id.*

17 In June 2014, County of San Diego Health and Human Services Agency
18 (“HHSA”) filed a petition on D.C.’s behalf alleging D.C. sustained bruises to his head,
19 “which would not ordinarily be sustained except as a result of the unreasonable acts of
20 D.C.’s father[.]” *Id.* ¶ 13. Juvenile dependency proceedings commenced shortly
21

22
23 ² Defendant also moves to dismiss Plaintiffs’ *Monell* cause of action based on violations of the
24 First Amendment. See Doc. No. 25. However, in their opposition to the instant motion, Plaintiffs
25 withdrew “all of their First Amendment claims in the First Amended Complaint.” Doc. No. 26 at 2 n1.
26 As such, the Court **DENIES AS MOOT** Defendant’s motion to the extent it pertains to Plaintiffs’
27 *Monell* claim based on violations of the First Amendment.

28 ³ Because this matter is before the Court on a motion to dismiss, the Court must accept as true
the allegations set forth in the FAC. See *Hosp. Bldg. Co. v. Trs. Of Rex Hosp.*, 425 U.S. 738, 740
(1976).

1 thereafter. *See id.* D.C. lived with Williams during this time, and Clark was no longer
2 able to have unsupervised visits with his son. *See id.* Clark, angry about the supervised
3 visits with D.C., began making “false allegations against Williams and [Evans.]” *Id.* ¶¶
4 14-15.

5 In January 2016, Clark reported a bruise near D.C.’s eye to HHSA. *See id.* ¶ 18.
6 D.C. “hit his left eye on a corner of a kitchen island while playing with Minor Plaintiff
7 Aa.E.” *Id.* ¶ 18. Social worker Daniel Bernal (“Bernal”) inspected the bruise on January
8 8, 2016. *See id.* ¶ 18. During Bernal’s investigation, Bernal informed Williams that he
9 wished to interview minor plaintiff Aa.E. alone, but Williams did not consent to such an
10 interview. *See id.* ¶ 19. On January 11, 2016, Evans and Williams’ attorney sent a letter
11 to the County, HHSA, and Bernal, indicating that “Minor Plaintiffs were represented by
12 counsel and that no interviews of Minor Plaintiffs A.C., Am.E. or Aa.E. should take place
13 without counsel present.” *Id.* ¶ 20.

14 On January 12, 2016, D.C. sustained additional injuries to his head when “he ran
15 into a doorknob at his home[.]” *Id.* ¶ 21. Williams took D.C. to the hospital, and the
16 doctor discharged D.C. indicating that D.C. “sustained a ‘normal childhood injury.’” *Id.*
17 Clark, once again, reported the incident to the HHSA hotline. *See id.*

18 On January 19, 2016, Bernal went to A.C.’s middle school, instructed staff to
19 remove her from her classroom, and “detained her against her will” without court order,
20 parental consent, knowledge, or presence. *Id.* ¶ 22. That same day, Bernal also visited
21 Am.E. and Aa.E.’s elementary school, instructed staff to remove them from their
22 classrooms, and “detained them against their will” without court order, parental consent,
23 knowledge, or presence. *Id.* ¶ 23. Once the children were removed from their
24 classrooms, Bernal, social worker Janet Barragan (“Barragan”), and social worker
25 Miriam Partida (“Partida”) “interrogated” the children, despite the fact that Bernal, the
26 County, and HHSA “were informed in writing” that Evans and Williams “did not want
27 their minor children to be interviewed by social workers with the County and HHSA
28 without a parent and/or attorney being present at that interview.” *Id.* ¶ 24. Notably, there

1 were not, nor have there ever been, any allegations that Minor Plaintiffs were abused or
2 neglected by their parents, or any other individuals. *See id.*

3 During the interviews, the social workers inquired about Minor Plaintiffs' safety at
4 home, how their parents disciplined them, and whether D.C. "was an active child." *Id.* ¶
5 25. The social workers did not inform the Minor Plaintiffs that they could decline to be
6 interviewed, nor were they given a choice about being interviewed "once they were
7 detained and confronted by the County workers." *Id.* ¶ 26. Further, the Minor Plaintiffs
8 "were not informed that they could have a parent and/or an attorney present for the
9 interviews." *Id.* At the time of the interviews, the social workers "did not have exigency,
10 Court Order, parental consent, knowledge or presence, or even reasonable suspicion that
11 the Minor Plaintiffs were the subject of abuse or neglect." *Id.* ¶ 27.

12 Clark "continues to make false allegations" and on December 29, 2017, social
13 worker Lisette Alvarez ("Alvarez") contacted Williams to inquire about conducting an
14 in-person interview regarding disciplinary issues involving Williams' children. *See id.* ¶
15 28. On January 11, 2018, Alvarez "reiterated her intent" to interview Williams and her
16 children. *See id.* ¶ 29. Williams indicated that she agreed for a meeting with herself,
17 D.C., and her counsel, but that she would not agree to interviews of her other children.
18 *See id.* Alvarez, however, "refused to agree not to go to the schools" of the Minor
19 Plaintiffs pursuant to Defendant's "policies that allowed her to conduct such
20 interviews[.]" *Id.* (emphasis in original).

21 Based on these allegations, Plaintiffs commenced the instant action. Plaintiffs seek
22 general damages and injunctive relief. *See* FAC. The Court previously found Plaintiffs
23 have sufficiently alleged a *Monell* claim based on violations of Minor Plaintiffs' Fourth
24 Amendment rights, and Evans and Williams' Fourteenth Amendment substantive and
25 procedural due process rights. *See* Doc. No. 23 at 23. The Court, however, dismissed
26 Plaintiffs' claim for injunctive relief with leave to amend. *See id.* at 25. Defendant now
27 moves to dismiss Plaintiffs' amended claim for injunctive relief for failure to state a
28 claim pursuant to Rule 12(b)(6). *See* Doc. No. 25.

1 LEGAL STANDARD

2 A Rule 12(b)(6) motion to dismiss tests the sufficiency of the complaint. *Navarro*
3 *v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). A pleading must contain “a short and plain
4 statement of the claim showing that the pleader is entitled to relief. . . .” Fed. R. Civ. P.
5 8(a)(2). However, plaintiffs must also plead “enough facts to state a claim to relief that is
6 plausible on its face.” Fed. R. Civ. P. 12(b)(6); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544,
7 570 (2007). The plausibility standard thus demands more than a formulaic recitation of
8 the elements of a cause of action, or naked assertions devoid of further factual
9 enhancement. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Instead, the complaint “must
10 contain allegations of underlying facts sufficient to give fair notice and to enable the
11 opposing party to defend itself effectively.” *Starr v. Baca*, 652 F.3d 1202, 1216 (9th Cir.
12 2011).

13 In reviewing a motion to dismiss under Rule 12(b)(6), courts must assume the truth
14 of all factual allegations and must construe them in the light most favorable to the
15 nonmoving party. *Cahill v. Liberty Mut. Ins. Co.*, 80 F.3d 336, 337–38 (9th Cir. 1996).
16 The court need not take legal conclusions as true merely because they are cast in the form
17 of factual allegations. *Roberts v. Corrothers*, 812 F.2d 1173, 1177 (9th Cir. 1987).
18 Similarly, “conclusory allegations of law and unwarranted inferences are not sufficient to
19 defeat a motion to dismiss.” *Pareto v. FDIC*, 139 F.3d 696, 699 (9th Cir. 1998).

20 In determining the propriety of a Rule 12(b)(6) dismissal, courts generally may not
21 look beyond the complaint for additional facts. *United States v. Ritchie*, 342 F.3d 903,
22 908 (9th Cir. 2003). “A court may, however, consider certain materials—documents
23 attached to the complaint, documents incorporated by reference in the complaint, or
24 matters of judicial notice—without converting the motion to dismiss into a motion for
25 summary judgment.” *Id.*; *see also Lee v. City of Los Angeles*, 250 F.3d 668, 688 (9th Cir.
26 2001). Where dismissal is appropriate, a court should grant leave to amend unless the
27 plaintiff could not possibly cure the defects in the pleading. *Knappenberger v. City of*
28 *Phoenix*, 566 F.3d 936, 942 (9th Cir. 2009).

1 DISCUSSION

2 The Court previously determined that Plaintiffs lacked standing to pursue their
3 claim for injunctive relief based on the failure to allege that the social workers “will
4 conduct in-school interviews of the Minor Plaintiffs again in a similar way.” Doc. No. 23
5 at 24. The Court granted Plaintiffs leave to amend their claim, and Plaintiffs filed their
6 FAC setting forth the additional allegations regarding Clark’s additional false allegations
7 and Alvarez’s intent to conduct further interviews of Minor Plaintiffs. *See* FAC ¶¶ 28-
8 29. Based on these allegations, Plaintiffs seek “an order enjoining and prohibiting”
9 Defendant from “failing to establish, implement, and follow policies, procedures,
10 customs and practices . . . as to the seizure, detention and interrogation of minor children
11 at public schools without parental consent, presence or knowledge, Court Order, or
12 exigent circumstances.” *Id.* ¶ 42.

13 Defendant moves to dismiss Plaintiffs’ amended claim for injunctive relief,
14 arguing that Plaintiffs’ “allegation that this investigation may cause the County to
15 conduct in-school interviews of Minor Plaintiffs in a similar way is purely speculative.”
16 Doc. No. 25-1 at 2. In opposition, Plaintiffs contend that Defendant’s in-school interview
17 policies, coupled with the open investigation against Williams, “create a sufficient
18 likelihood that there is a real threat of future Constitutional violations against [M]inor
19 Plaintiffs.” Doc. No. 26 at 4.

20 To establish Article III standing, a plaintiff must show that he or she suffered an
21 “injury in fact,” that the injury is “fairly traceable” to the challenged conduct, and that it
22 is “likely” and not just “speculative” that the injury will be “redressed by a favorable
23 decision.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992). The Supreme
24 Court has cautioned that injunctive relief is “an extraordinary remedy that may only be
25 awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v.*
26 *Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). “In the particular context of
27 injunctive and declaratory relief, a plaintiff must show that he has suffered or is
28 threatened with a concrete and particularized legal harm, coupled with a sufficient

1 likelihood that he will again be wronged in a similar way.” *Canatella v. State of*
2 *California*, 304 F.3d 843, 852 (9th Cir. 2002) (internal quotation marks and citations
3 omitted).

4 Here, the Court finds that Plaintiffs sufficiently allege standing to pursue their
5 injunctive relief claim. Contrary to Defendant’s assertion that Plaintiffs’ alleged threat of
6 future harm is purely speculative, Plaintiffs allege that Clark continues to report allegedly
7 false claims to the County, there is an open investigation against Williams regarding
8 D.C., Alvarez has indicated on two recent occasions that she wishes to conduct an in-
9 person interview with Williams, D.C., and the Minor Plaintiffs regarding the latest
10 allegations made by Clark, that Alvarez refused to agree not to go to the schools of the
11 Minor Plaintiffs and interview them without court order, and that Alvarez indicated that
12 the County’s policies permit her to conduct such interviews despite there being no
13 evidence that there are exigent circumstances. *See* FAC ¶¶ 28-29. Plaintiffs contend that
14 “unless enjoined, they have no adequate remedy at law to prevent or prohibit Defendant
15 from continuing, and/or repeating is unlawful and unconstitutional conduct and
16 policies[.]” Doc. No. 26 at 6. Thus, based on Plaintiffs’ allegations, the Court finds that
17 there are “at least some ‘continuing, present adverse effects[.]’” *Canatella*, 304 F.3d at
18 853 (quoting *Lyons*, 461 U.S. at 102).

19 Defendant further argues that Plaintiffs have not sufficiently alleged that they are
20 likely to be wronged again in a similar way. *See* Doc. No. 27 at 4-6. Defendant focuses
21 on the fact that a new social worker, Lisette Alvarez, is conducting this investigation.
22 However, that a different social worker is conducting the investigation does not make it
23 implausible that Minor Plaintiffs could be interviewed again in a similar manner,
24 especially in light of Plaintiffs’ claim that Alvarez refused to agree not to go to the
25 schools of Minor Plaintiffs and conduct such interviews. *See* FAC ¶ 29. Defendant also
26 contends that “the manner in which Plaintiffs allege that social workers conducted in-
27 school interviews in 2016 is not likely to be repeated.” Doc. No. 27 at 5. Yet Plaintiffs
28 allege that Defendant’s policy allows social workers to conduct interviews of minors at

1 their school without consent, court order, or exigent circumstances. *See* FAC ¶¶ 31, 34.
2 Plaintiffs further allege that Defendant has “not changed or modified such actions,
3 conduct and/or policies to conform to law.” *Id.* ¶ 40. Thus, the Court finds that it is
4 plausible that based on the current open investigation, Alvarez’s stated intention to
5 interview the children, and Alvarez’s claim that she can interview the children at school
6 without parental consent, court order, or allegations of child abuse or neglect, Plaintiffs
7 have shown “a sufficient likelihood that [they] will again be wronged in a similar way.”
8 *Canatella*, 304 F.3d at 852. While “past wrongs do not in themselves amount to [a] real
9 and immediate threat of injury necessary to make out a case or controversy,” *Lyons*, 461
10 U.S. at 103, “past wrongs are evidence bearing on whether there is a real and immediate
11 threat of repeated injury” *O’Shea*, 414 U.S. at 496.

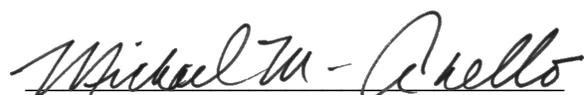
12 Accordingly, the Court concludes that Plaintiffs have pleaded facts sufficient to
13 demonstrate standing to pursue injunctive relief. *See Canatella*, 304 F.3d at 853
14 (“Because the equitable relief he seeks would alleviate the harm he has alleged, *Canatella*
15 demonstrates standing and his claims should be allowed to proceed.”).

16 CONCLUSION

17 Based on the foregoing, the Court **DENIES** Defendant’s motion to dismiss
18 Plaintiffs’ amended claim for injunctive relief. Defendant must file an answer to the First
19 Amended Complaint within fourteen (14) days from the date this Order is filed. *See* Fed.
20 R. Civ. P. 12(a)(4)(A).

21
22 **IT IS SO ORDERED.**

23
24 Dated: April 11, 2018

25 

26 HON. MICHAEL M. ANELLO
27 United States District Judge
28