

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF  
CALIFORNIA

H.L., D.L.1, Cleavotta Morgan, and David Morgan v. County of Los Angeles, Kazeem Abass, Nchegem Orji, Salma Zubair

H.L. v. County of Los Angeles · No. 2:25-cv-05642-ODW (SKx) · Decided January 20, 2026

SUMMARY

The United States District Court for the Central District of California partially grants defendants’ motion to dismiss claims arising from Daejon Morgan’s overdose death while in custody at Twin Towers Correctional Facility. The court allows claims concerning deliberate indifference to dangerous jail conditions and certain Monell theories involving failure to prevent drug proliferation, but dismisses or limits claims concerning medical care, medical-staff training, and several alleged municipal policies.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Central District of California                                                                                                                                                                                                                                                                                                             |
| WRITING FOR THE COURT | Otis D. Wright, II                                                                                                                                                                                                                                                                                                                                                              |
| JURISDICTION          | United States District Court for the Central District of California                                                                                                                                                                                                                                                                                                             |
| DECIDED               | January 20, 2026                                                                                                                                                                                                                                                                                                                                                                |
| DOCKET                | 2:25-cv-05642-ODW (SKx)                                                                                                                                                                                                                                                                                                                                                         |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | Plaintiffs brought constitutional and state-law claims arising from Daejon Morgan's overdose death while in Los Angeles County custody. Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the First Amended Complaint. The court granted the motion in part and denied it in part, allowing some claims to proceed and permitting amendment of others. |
| STANDARD OF REVIEW    | On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and construes them in the light most favorable to the plaintiff, but need not accept conclusory allegations, unwarranted deductions, or unreasonable inferences. The complaint must contain enough factual matter to state a plausible claim for relief.                                  |
| PRECEDENTIAL VALUE    | unpublished_or_nonprecedential                                                                                                                                                                                                                                                                                                                                                  |

## PARTIES

H.L., D.L.1, Cleavotta Morgan, David Morgan v. County of Los Angeles, Kazeem Abass, Nchegem Orji, Salma Zubair, Doe Defendants

## TOPICS

section 1983

municipal liability

motions to dismiss

substantive due process

civil rights

## PRACTICE AREAS

civil rights

constitutional law

municipal liability

civil procedure

torts

health law

## QUESTIONS PRESENTED

1. Whether the complaint plausibly alleged deliberate indifference to dangerous conditions of confinement based on the alleged proliferation and smuggling of dangerous drugs in County jails.
2. Whether the complaint plausibly alleged deliberate indifference to Morgan's medical needs against the individual medical defendants.
3. Whether the complaint plausibly alleged Monell liability against the County for failure to train, unconstitutional policies or customs, and ratification.
4. Whether the complaint plausibly alleged a Fourteenth Amendment claim for interference with familial relations.
5. Whether California law barred the negligence claim against the County.
6. Whether the complaint stated a claim under the California Bane Act.
7. Whether California Government Code section 845.6 permitted the failure-to-summon-medical-care claim against the defendants and the County.
8. Whether the challenged claims should be dismissed with or without leave to amend.

## HOLDINGS

1. The complaint plausibly alleged that Doe defendants knew or should have known of dangerous drug proliferation in the County jail system, failed to take reasonable measures such as screening deputies or using body scanners, and thereby caused Morgan's overdose. The motion to dismiss Count 1 was denied.
2. The complaint did not plausibly allege that Abass, Orji, or Zubair acted with deliberate indifference to Morgan's medical needs. Count 2 was dismissed as to Abass and Zubair without leave to amend and as to Orji with leave to amend.
3. The complaint plausibly alleged a Monell failure-to-train claim based on the County's alleged failure to train jail employees to prevent drug proliferation, but did not plausibly allege a failure to train medical staff to treat drug abuse. The latter theory was dismissed without leave to amend; the drug-proliferation theory survived.
4. Most of the alleged County policies, customs, and practices were insufficiently pleaded, but the alleged policy of routinely failing to train correctional staff to prevent drugs from being smuggled into jail

facilities plausibly stated a Monell claim and survived dismissal.

5. The complaint failed to state a ratification claim. The claim against the County was dismissed with leave to amend, while the claim against Doe defendants was dismissed without leave to amend.
6. The complaint plausibly alleged a familial-relations claim against Doe defendants based on their alleged deliberate indifference to the proliferation of dangerous drugs, but did not plausibly allege such a claim against Abass, Orji, or Zubair. The claim was dismissed against Orji with leave to amend and against Abass and Zubair without leave to amend.
7. California Government Code section 815(a) barred plaintiffs' direct common-law negligence claim against the County absent statutory authorization. Count 7 was dismissed without leave to amend as to the County but survived against Doe defendants.
8. The complaint failed to state a Bane Act claim because it did not plausibly allege that defendants specifically intended, through reckless disregard or otherwise, to interfere with Morgan's constitutional rights. The claim was dismissed against Doe defendants and Orji with leave to amend and against Abass and Zubair without leave to amend.
9. The motion to dismiss Count 9 was denied. Sections 815(a) and 844.6 did not foreclose a section 845.6 claim because section 845.6 creates an exception for failure to summon medical care when an employee acts within the scope of employment.

#### KEY QUOTATIONS

*“To state a claim under § 1983, a plaintiff must prove that (1) they were “deprived of a right secured by the Constitution or laws of the United States,” and (2) “the alleged deprivation was committed under color of state law.””* (Discussion § IV.A.1)

*“Thus, the plaintiff must prove more than negligence but less than subjective intent—something akin to reckless disregard”* (Discussion § IV.A.1)

*“As a general matter, municipal liability is not available in § 1983 actions under a respondeat superior theory.”* (Discussion § IV.A.2)

*“However, section 845.6 clearly carves out an exception for a public entity’s failure to summon medical care”* (Discussion § IV.B.3)

#### FACTUAL BACKGROUND

Daejon Morgan was detained at Twin Towers Correctional Facility in Los Angeles County. The complaint alleged a pattern of drug overdoses and fentanyl exposures in County jails, including an alleged deputy drug-smuggling incident. Morgan overdosed on October 14, 2024, received Narcan and medical treatment, was returned to custody with recommended follow-up, and was later evaluated by jail medical personnel. On October 30, 2024, Morgan suddenly became unresponsive in his cell and died after jail staff were summoned.

#### PROCEDURAL HISTORY

Plaintiffs filed a First Amended Complaint asserting six claims under 42 U.S.C. § 1983 and three California-law claims against the County, individual medical defendants, and Doe defendants. Defendants moved to dismiss all claims. The court dismissed or partially dismissed several claims, denied dismissal of claims concerning dangerous jail conditions, certain Monell allegations, interference with familial relations against Doe defendants, negligence against Doe defendants, and failure to summon medical care, and ordered plaintiffs to file an amended complaint by February 3, 2026.

**DISPOSITION**

other

**REMAND INSTRUCTIONS**

No remand. Plaintiffs were ordered to file an amended complaint by February 3, 2026. If they failed to amend, claims dismissed with leave to amend would be deemed dismissed with prejudice.

**CASES CITED**

- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Balistreri v. Pacifica Police Department, 901 F.2d 696, 699 (9th Cir. 1990)
- Porter v. Jones, 319 F.3d 482, 494 (9th Cir. 2003)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Lee v. City of Los Angeles, 250 F.3d 668, 679 (9th Cir. 2001)
- Sprewell v. Golden State Warriors, 266 F.3d 979, 988 (9th Cir. 2001)
- Manzarek v. St. Paul Fire & Marine Insurance Co., 519 F.3d 1025, 1031 (9th Cir. 2008)
- Schreiber Distributing Co. v. Serv-Well Furniture Co., 806 F.2d 1393, 1401 (9th Cir. 1986)
- Carrico v. City & County of San Francisco, 656 F.3d 1002, 1008 (9th Cir. 2011)
- March v. County of San Diego, 680 F.3d 1148, 1152 (9th Cir. 2012)
- American Manufacturers Mutual Insurance Co. v. Sullivan, 526 U.S. 40, 49-50 (1999)
- Fraihat v. U.S. Immigration & Customs Enforcement, 16 F.4th 613, 636 (9th Cir. 2021)
- Gordon v. County of Orange, 888 F.3d 1118, 1125 (9th Cir. 2018)
- Castro v. County of Los Angeles, 833 F.3d 1060, 1071 (9th Cir. 2016)
- Monell v. Department of Social Services, 436 U.S. 658, 690-94 (1978)
- Gillette v. Delmore, 979 F.2d 1342, 1346-47 (9th Cir. 1992)
- City of Canton v. Harris, 489 U.S. 378, 387, 390 (1989)
- Board of County Commissioners v. Brown, 520 U.S. 397, 407 (1997)
- Connick v. Thompson, 563 U.S. 51, 62 (2011)
- Doe #1 M.L. v. San Bernardino Sheriff's Department, 753 F. Supp. 3d 1024, 1029-30 (C.D. Cal. 2024)
- Waggy v. Spokane County, 594 F.3d 707, 713-14 (9th Cir. 2010)
- Herd v. County of San Bernardino, 311 F. Supp. 3d 1157, 1168 (C.D. Cal. 2018)

- City of St. Louis v. Praprotnik, 485 U.S. 112, 127 (1988)
- Trevino v. Gates, 99 F.3d 911, 918 (9th Cir. 1996)
- Saved Magazine v. Spokane Police Department, 19 F.4th 1193, 1201 (9th Cir. 2021)
- Jackson v. Barnes, 749 F.3d 755, 763 (9th Cir. 2014)
- Tsao v. Desert Palace, Inc., 698 F.3d 1128, 1143, 1145 (9th Cir. 2012)
- Oviatt v. Pearce, 954 F.2d 1470, 1474 (9th Cir. 1992)
- Rosenbaum v. Washoe County, 663 F.3d 1071, 1079 (9th Cir. 2011)
- Porter v. Osborn, 546 F.3d 1131, 1137 (9th Cir. 2008)
- Wilkinson v. Torres, 610 F.3d 546, 554 (9th Cir. 2010)
- Herrera v. Los Angeles Unified School District, 18 F.4th 1156, 1158-59 (9th Cir. 2021)
- Johnson v. Shasta County, 83 F. Supp. 3d 918, 936 (E.D. Cal. 2015)
- Reese v. County of Sacramento, 888 F.3d 1030, 1044-45 (9th Cir. 2018)
- Zamani v. Carnes, 491 F.3d 990, 997 (9th Cir. 2007)

## OPINION

H.L., D.L.1, Cleavotta Morgan, and David Morgan v. County of Los Angeles, Kazeem Abass, Nchegem Orji, Salma Zubair

PER CURIAM.

1 O 2 3 4 5 6 7 United States District Court 8 Central District of California 9 10 11 H.L., Case No  
2:25-cv-05642-ODW (SKx) 12 Plaintiffs,

ORDER GRANTING IN PART

13 v.

DEFENDANTS' MOTION TO

14 COUNTY OF LOS ANGELES, DISMISS [26]

15 Defendants. 16

17 I. INTRODUCTION

18 This action arises from the overdose death of Decedent Daejon Morgan while in 19 custody. (First Am. Compl. ("FAC"), Dkt. No. 22.) Plaintiffs H.L., D.L.1, Cleavotta 20 Morgan, and David Morgan, all Morgan's family members, now bring this action 21 against Defendants the County of Los Angeles, Kazeem Abass, Nchegem Orji, Salma 22 Zubair, and several Does, alleging Constitutional and statutory violations. (Id.) 23 Defendants move to dismiss. (Mot. Dismiss ("Motion" or "Mot."), Dkt. No. 26.) For 24 the reasons below, the Court GRANTS IN PART Defendants' Motion.2 25 26 1 H.L. and D.L. are Morgan's minor children and bring this action both individually and representatives of Morgan's estate. (FAC ¶¶ 14–16.) They are represented by their court-appointed 27 guardian ad litem ("GAL"), Tiiesha Lane. (Order GAL, Dkt. No. 17.) 28 2 Having carefully considered the papers filed in connection with the Motion, the Court deemed the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.D. Cal. L.R. 7-15.

1 II. BACKGROUND3

2 The County of Los Angeles, through non-party Los Angeles County Sheriff's 3 Department, runs Twin Towers Correctional Facility and other jails in its system. (FAC 4 ¶¶ 19–20.) In 2023, twelve inmates died of drug overdoses in the County's jail system. 5 (Id. ¶ 28.) In June 2024, six inmates at Twin Towers alone were taken to the hospital 6 after being exposed to fentanyl. (Id. ¶ 29.) On April 30, 2024, a Sheriff's deputy was 7 arrested and charged with smuggling drugs into the County's jails. (Id. ¶ 32.) And on 8 October 8, 2024, eight inmates in a County jail suffered drug overdoses, leading to the 9 County's jail staff administering Narcan—an anti-opioid drug—to 187 people. (Id. 10 ¶¶ 30–31.) 11 On October 14, 2024, Morgan, who was in custody at Twin Towers Correctional 12 Facility, ingested a pill that he obtained from another inmate. (Id. ¶¶ 36–37.) Deputies 13 later found Morgan exhibiting signs of opioid overdose and administered Narcan before 14 contacting jail medical staff. (Id. ¶ 38.) Abass, a nurse employed by the County at 15 Twin Towers, provided Morgan with medical care and sent him to Los Angeles County 16 Medical Center for further medical care. (Id. ¶¶ 21, 39.) The same day, Abass 17 re-evaluated Morgan and deemed him fit to go back to his jail cell. (Id. ¶ 40.) However, 18 Abass recognized that Morgan needed additional medical follow-up and noted that 19 Morgan should follow up with the “jail MD.” (Id. ¶ 41.) Abass did not actually set a 20 follow-up appointment with a medical doctor and instead set an appointment with a 21 mental health provider for the following day. (Id. ¶ 42.) 22 On October 15, 2024, Orji, a nurse practitioner employed by the County at Twin 23 Towers, evaluated Morgan for ongoing mental health treatment. (Id. ¶¶ 22, 43.) 24 However, there is no documentation of whether Morgan and Orji discussed the overdose 25 or whether Orji provided any treatment related to the overdose. (Id. ¶ 45.) 26 27 3 All factual references derive from H.L.'s First Amended Complaint unless otherwise noted. H.L.'s 28 well-pleaded factual allegations are accepted as true for purposes of resolving the Motion. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). 1 On October 16, 2024, Morgan complained to jail staff about ongoing headaches. 2 (Id. ¶ 47.) A nurse sent Morgan to jail urgent care, where Dr. Zubair, a doctor employed 3 by the County at Twin Towers, evaluated him. (Id. ¶¶ 47–48.) Dr. Zubair noted 4 Morgan complained about neck pain stemming from a fall on the same day as Morgan's 5 overdose, but otherwise did not mention Morgan's overdose in her notes. (Id. ¶ 48.) 6 When Dr. Zubair recommended Morgan undergo a CT scan of his neck, Morgan 7 refused. (Id.) 8 On October 30, 2024, at around 7:15 p.m., Morgan was on a phone call with his 9 mother when he suddenly went silent. (Id. ¶ 56.) Morgan's cellmates attempted to 10 administer Narcan and signaled to Sheriff's deputies that Morgan needed medical 11 assistance. (Id. ¶ 57.) At approximately 7:22 p.m., the first Sheriff's deputy arrived 12 and began medical treatment. (Id. ¶ 58.) Morgan was pronounced dead at 7:42 p.m. 13 (Id. ¶ 64.) 14 Based on these allegations, Morgan's children, Plaintiffs H.L. and D.L., and 15 Morgan's parents, Plaintiffs Cleavotta and David Morgan, assert nine causes of action 16 against Abass, Orji, and Zubair (the “Individual Defendants”); the County of Los 17 Angeles; and ten Doe Defendants. (Id. ¶¶ 65–148.) Plaintiffs bring six causes of action 18 under 42 U.S.C. § 1983: (1)

deliberate indifference to dangerous conditions of 19 confinement; (2) failure to provide medical care; (3) failure to train under *Monell v. 20 New York Department of Social Services*, 436 U.S. 658 (1978); (4) unconstitutional 21 custom, practice, or policy under *Monell*; (5) ratification under *Monell*; and 22 (6) interference with familial relations. (Id. ¶¶ 65–121.) Plaintiffs also assert three state 23 law causes of action: (7) negligence; (8) violation of the Bane Act; and (9) failure to 24 summon medical care under California Government Code section 845.6. (Id. ¶¶ 122– 25 48.) Defendants now move to dismiss all claims. (Mot.)

### 26 III. LEGAL STANDARD

27 A court may dismiss a complaint under Rule 12(b)(6) for lack of a cognizable 28 theory or insufficient facts pleaded to support an otherwise cognizable theory. 1 *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988). To survive a 2 motion to dismiss, a complaint need only satisfy the minimal notice pleading 3 requirements of Rule 8(a)(2)—a short and plain statement of the claim. *Porter v. Jones*, 4 319 F.3d 482, 494 (9th Cir. 2003). The factual allegations in the complaint “must be 5 enough to raise a right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 6 550 U.S. 544, 555 (2007). Stated differently, the complaint must “contain sufficient 7 factual matter, accepted as true, to state a claim for relief that is plausible on its face.” 8 *Iqbal*, 556 U.S. at 678 (internal quotation marks omitted). 9 Determining whether a complaint states a claim for relief is a “context-specific 10 task that requires the reviewing court to draw on its judicial experience and common 11 sense.” Id. at 679. Generally, a court limits its review to the pleadings and must 12 construe all factual allegations in the complaint “as true and . . . in the light most 13 favorable” to the plaintiff. *Lee v. City of Los Angeles*, 250 F.3d 668, 679 (9th Cir. 14 2001), overruled on other grounds as recognized by *Galbraith v. County of Santa Clara*, 15 307 F.3d 1119, 1126 (9th Cir. 2002). However, a court need not blindly accept 16 conclusory allegations, unwarranted deductions of fact, or unreasonable inferences. 17 *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001). 18 Where a district court grants a motion to dismiss, it should generally provide 19 leave to amend, unless it is clear the complaint could not be saved by any amendment. 20 See Fed. R. Civ. P. 15(a); *Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 21 1031 (9th Cir. 2008). Leave to amend may be denied when “the court determines that 22 the allegation of other facts consistent with the challenged pleading could not possibly 23 cure the deficiency.” *Schreiber Distrib. Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393, 24 1401 (9th Cir. 1986). Thus, leave to amend “is properly denied . . . if amendment 25 would be futile.” *Carrico v. City & County of San Francisco*, 656 F.3d 1002, 1008 26 (9th Cir. 2011).

### 27 IV. DISCUSSION

28 Defendants move to dismiss Plaintiffs’ First Amended Complaint. (Mot.) 1 A. Section 1983 Causes of Action 2 Plaintiffs bring six causes of action under 42 U.S.C. § 1983. To state a claim 3 under § 1983, a plaintiff must prove that (1) they were “deprived of a right secured by 4 the Constitution or laws of the United States,” and (2) “the alleged deprivation was 5 committed under color of state law.” *March v. County of San Diego*, 680 F.3d 1148, 6 1152 (9th Cir. 2012) (citing

Am. Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 49–50 (1999)). 8 The issue of whether Defendants acted under color of state law is not at issue. 9 (See generally Mot.; Opp’n.) Therefore, the Court focuses its analysis on whether 10 Plaintiffs plausibly alleges that Defendants deprived them of any particular 11 constitutional guaranty. 12 1. Deliberate Indifference (Counts 1–2) 13 Plaintiffs bring two separate claims deliberate indifference under the Fourteenth 14 Amendment: (1) deliberate indifference to dangerous conditions of confinement, and 15 (2) deliberate indifference to the need for medical care. (FAC ¶¶ 65–90.) “Deliberate 16 indifference requires a substantial showing.” *Fraihat v. U.S. Immigr. & Customs Enf’t*, 17 16 F.4th 613, 636 (9th Cir. 2021). The four elements of a deliberate indifference claim 18 are: 19 i. the defendant made an intentional decision with respect to the 20 conditions under which the plaintiff was confined; ii. those conditions put the plaintiff at substantial risk of suffering serious 21 harm; 22 iii. the defendant did not take reasonable available measures to abate that risk, even though a reasonable official in the circumstances would have 23 appreciated the high degree of risk involved—making the 24 consequences of the defendant’s conduct obvious; and 25 iv. by not taking such measures, the defendant caused the plaintiff’s injuries. 26 27 *Gordon v. County of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018). “With respect to 28 the third element, the defendant’s conduct must be objectively unreasonable, a test that 1 will necessarily turn on the facts and circumstances of each particular case.” *Castro v. 2 County of Los Angeles*, 833 F.3d 1060, 1071 (9th Cir. 2016) (citation modified). 3 “[M]ere lack of due care by a state official does not deprive an individual of life, liberty, 4 or property under the Fourteenth Amendment.” *Id.* (citation modified). “Thus, the 5 plaintiff must prove more than negligence but less than subjective intent—something 6 akin to reckless disregard,” *Gordon*, 888 F.3d at 1125 (citation modified), and the 7 “reckless disregard standard is a formidable one,” *Fraihat*, 16 F.4th at 636 (citation 8 modified). 9 (a) Dangerous conditions (Count 1) 10 In their first cause of action, Plaintiffs allege that several Doe Defendants were 11 deliberately indifferent to the dangerous conditions of Morgan’s confinement. (FAC 12 ¶¶ 65–72.) Specifically, Plaintiffs claim that the Doe Defendants knew of the 13 proliferation of smuggled and dangerous drugs in Twin Towers but failed to take 14 reasonable measures to abate this risk, causing Morgan’s overdose. (*Id.* ¶¶ 66–69, 71.) 15 The Court finds that Plaintiffs have alleged sufficient facts, taken as true, to 16 plausibly establish a claim for deliberate indifference to dangerous conditions. 17 Plaintiffs plausibly allege that Doe Defendants knew, or at least should have known, of 18 the proliferation of dangerous drugs in their jail system. Specifically, Plaintiffs allege 19 a pattern of drug overdoses in the County’s jail system while Morgan was incarcerated 20 at Twin Towers. (See *id.* ¶¶ 28–32.) Plaintiffs also plausibly allege that there were 21 reasonable measures, such as screening jail deputies or utilizing body scanners, that Doe 22 Defendants could have taken but failed to do. (*Id.* ¶ 34.) 23 As Plaintiffs note in their opposition brief, (Opp’n 4, Dkt. No. 29), Defendants 24 do not substantively address this specific cause of action and instead devote most of 25 their argument to Plaintiff’s allegations regarding deliberate indifference to medical 26 care, (Mot. 7–8). The only argument that Defendants make regarding

this cause of action is that “[t]here are no facts alleged that show that there were preventable measures, or actions by County Defendants that show knowledge of the claimed dangerous conditions.” (Id. at 7.) However, this is plainly belied by the record. It is more than reasonable to infer, based on the pattern of drug incidents alleged in the First Amended Complaint, that Doe Defendants knew of the dangerous conditions in their jails and failed to prevent them. (See FAC ¶¶ 28–32.) Indeed, this alleged pattern—including one sheriff arrested for smuggling the drugs himself—plausibly paints a picture of jailers that have abdicated their duty to keep conditions of confinement safe for their inmates. Thus, the Court DENIES the Motion as to Plaintiffs’ first cause of action. (b) Medical care (Count 2) In their second cause of action, Plaintiffs allege that Individual Defendants were deliberately indifferent to Morgan’s need for medical care. (FAC ¶¶ 73–90.) In the context of medical care, “neither mere lack of due care, nor an inadvertent failure to provide adequate medical care, nor even medical malpractice, without more, is sufficient to meet” the reckless disregard standard. *Frailhat*, 16 F.4th at 636 (citation 15 modified). “Instead, a plaintiff must show that the defendant ‘disregard[ed] an excessive risk’ to the plaintiff’s health and safety by failing to take ‘reasonable and available measures’ that could have eliminated that risk.” Id. (quoting *Castro*, 888 F.3d 18 at 1071–71). Plaintiffs’ allegations against Individual Defendants do not meet this formidable standard. First, Plaintiffs’ allegations against Abass do not amount to “lack of due care,” much less “reckless disregard.” *Frailhat*, 16 F.4th at 636. Plaintiffs allege that Abass, a nurse, dutifully sent Morgan to a hospital for higher level care after evaluating him immediately post-overdose. (FAC ¶ 39.) Once Morgan returned from the hospital where Morgan was presumably evaluated by doctors, Abass not only re-evaluated Morgan a second time, but also “recognized the need for additional follow-up” and referred Morgan for a visit with the jail doctor. (Id. ¶¶ 40–41.) And while Plaintiffs allege that Abass “failed to make any follow-up appointment” for Morgan, Morgan nonetheless saw both a nurse practitioner and a doctor in the coming days. (See id. ¶¶ 43, 48.) Second, Plaintiffs’ allegations against Orji also fall short. Plaintiffs allege that Orji evaluated Morgan’s mental health, but that Orji failed to document any discussion about the overdose or provide any opiate withdrawal treatment. (FAC ¶ 45.) Even taken as true, these facts do not sufficiently state a claim for deliberate indifference. These facts do not demonstrate how Orji treated Morgan, and thus, the Court is unable to evaluate whether Plaintiffs’ allegations regarding Orji’s treatment meet the reckless disregard standard and raise “a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555. Finally, Plaintiffs’ allegations against Zubair also do not even amount to “lack of due care,” much less reckless disregard. *Frailhat*, 16 F.4th at 636. Plaintiffs allege that Morgan went to urgent care complaining of neck pain. (FAC ¶ 47.) Zubair, who was the physician in the jail urgent care, “noted complaints of neck pain resulting from a fall from bed on October 14” and “recommended a[] CT scan of Morgan’s neck,” which Morgan refused. (Id. ¶ 48.) These facts, taken in the light most favorable to Plaintiffs, demonstrate only that Zubair attempted to treat Morgan’s complaint, and that Morgan rebuffed Zubair’s attempts.

While Zubair “made no other recommendations or referrals 19 for follow up treatment,” that failure to do so does not approach reckless disregard, 20 especially considering that Morgan refused the treatment that Zubair did recommend. 21 For these reasons, the Court GRANTS the Motion and DISMISSES Plaintiffs’ 22 second cause of action. The Court dismisses the cause of action as to Abass and Zubair 23 WITHOUT LEAVE TO AMEND because Plaintiffs’ own allegations demonstrate 24 that Abass’s and Zubair’s actions do not rise to the level of deliberate indifference. See 25 Schreiber Distrib., 806 F.2d at 1401 (finding denial of leave to amend proper when “the 26 court determines that the allegation of other facts consistent with the challenged 27 pleading could not possibly cure the deficiency”). The Court dismisses the cause of 28 1 action as to Orji WITH LEAVE TO AMEND because dismissal is due to lack of 2 factual sufficiency. 3 2. Monell Claims (Counts 3–5) 4 Plaintiffs claim the County is liable for Morgan’s death under Monell because the 5 County (1) failed to adequately train Individual and Doe Defendants as to the risk of 6 dangerous drugs, (2) maintained “unconstitutional policies, practices, and customs,” 7 and (3) ratified the Doe Defendants’ conduct. (FAC ¶¶ 91–121.) 8 As a general matter, municipal liability is not available in § 1983 actions under a 9 respondeat superior theory. Monell, 436 U.S. at 691. Liability attaches to a 10 municipality only when the “execution of a government’s policy or custom . . . inflicts 11 the [constitutional] injury.” Id. at 694. A plaintiff may establish municipal liability 12 only if they plausibly show: (1) a city employee committed a constitutional violation 13 “pursuant to a formal governmental policy” or a “longstanding practice or custom”; 14 (2) the city employee who committed the violation was an official with “final 15 policy-making authority”; or (3) an official with final policy-making authority “ratified 16 a subordinate’s unconstitutional decision or action and the basis for it.” *Gillette v. 17 Delmore*, 979 F.2d 1342, 1346–47 (9th Cir. 1992) (citations modified); see *City of 18 Canton v. Harris*, 489 U.S. 378, 390 (1989) (recognizing that a municipality’s failure 19 to train its employees can be actionable as an improper “policy”). “[T]o withstand a 20 motion to dismiss for failure to state a claim, a Monell claim must consist of more than 21 mere formulaic recitations of the existence of unlawful policies, conducts or habits.” 22 *Doe #1 M.L. v. San Bernardino Sheriff Dep’t*, 753 F. Supp. 3d 1024, 1029–30 (C.D. Cal. 23 2024). 24 (a) Failure to Train (Count 3) 25 Plaintiffs claim the County is liable under Monell, first, for failing to train its 26 employees regarding preventing the proliferation of drugs in the jails and treating 27 overdoses. (FAC ¶¶ 91–102.) 28 1 A municipality’s failure to train can serve as the basis for § 1983 liability in 2 “limited circumstances,” such as where its failure amounts to deliberate indifference. 3 *City of Canton*, 489 U.S. at 387. Absent circumstances where a failure to train is 4 expressed in actual written or oral policy, see *Bd. of Cnty. Cmm’rs v. Brown*, 520 U.S. 5 397, 407 (1997), a plaintiff ordinarily must demonstrate “[a] pattern of similar 6 constitutional violations by untrained employees,” *Connick v. Thompson*, 563 U.S. 51, 7 62 (2011). 8 Plaintiffs seem to advance two theories under this cause of action. First, Plaintiffs 9 allege that the County failed to adequately train its jailers to keep drugs out of its jail 10 system. (FAC ¶¶ 93, 96.) This, Plaintiffs have adequately pled. As the Court notes

11 above, Plaintiffs have alleged a systemic drug problem in the County's jail system that 12 plausibly infringes on constitutional rights. (See *id.* ¶¶ 28–32.) Every drug incident 13 and overdose is another notch in a “pattern of similar constitutional violations,” 14 plausibly by employees that have not been adequately trained to keep drugs out of the 15 County's jail system. See *Connick*, 563 U.S. at 62. 16 Second, Plaintiffs allege that the County failed to train its medical staff to treat 17 drug abuse. (FAC ¶ 97.) This, Plaintiffs have not adequately pled. As noted above, 18 the Court finds no plausible constitutional violation in the way Morgan was medically 19 treated. Thus, there is no “pattern of similar constitutional violations by untrained 20 employees.” *Connick*, 563 U.S. at 62. Moreover, Plaintiffs' allegations supporting this 21 theory are both conclusory and contradictory. Plaintiffs allege that medical staff require 22 specialized medical training and list the skills the County's medical staff should learn. 23 (*Id.* ¶ 97.) However, Plaintiffs fail to demonstrate that the County's medical staff lack 24 these skills. Instead, Plaintiffs allege only that the County failed to train its medical 25 staff to “ensure that an inmate that suffers an overdose receives any follow-up treatment 26 to minimize the risk of a future overdose.” (*Id.* ¶ 99.) But Plaintiffs' own facts plainly 27 controvert that allegation, considering Plaintiffs admit that Abass did treat Morgan 28 regarding the overdose by sending him to the hospital. (*Id.* ¶ 39–42.) 1 Accordingly, the Court GRANTS IN PART and DENIES IN PART the Motion 2 as to Plaintiffs' third cause of action. Specifically, the Court DISMISSES the third 3 cause of action as to Plaintiffs' allegations that the County failed to train its medical 4 staff to treat drug abuse WITHOUT LEAVE TO AMEND. However, the third cause 5 of action survives to the extent that it alleges that the County failed to train its employees 6 to prevent drug proliferation in jails. 7 (b) Unconstitutional Custom, Practice, or Policy (Count 4) 8 Plaintiffs next claim the County is liable under Monell because it knowingly 9 maintained, enforced, and applied “an official recognized county custom, policy, and 10 practice of acting deliberately indifferent to” serious medical needs and widespread 11 availability of illegal drugs in” County jails. (FAC ¶ 104.) Specifically, Plaintiffs 12 identify eight alleged Monell violations.<sup>4</sup> 13 A municipality may be liable under Monell for express policies, informal 14 policies, and policies of inaction. For a municipality to be liable for an improper express 15 policy or custom under Monell, a plaintiff must show that the municipality has an 16 express “policy statement, ordinance, regulation, or decision officially adopted and 17 promulgated by that body's officers.” *Monell*, 436 U.S. at 690; see *Waggy v. Spokane* 18 County, 594 F.3d 707, 713–14 (9th Cir. 2010) (noting that a plaintiff must allege and 19 prove an express policy exists to challenge an express municipal policy or custom). 20 4 The eight alleged policies and practices are: (a) Failing to implement policies and procedures on 21 basic symptom recognitions and assessment of inmates who are in medical distress and suffering from 22 severe opiate withdrawals including symptoms of shortness of breath, fever, and compromise lung functioning; (b) Routinely failing to train detention and medical staff to ensure needed follow-up care 23 is provided for life threatening medical conditions including prior drug overdoses; (c) Inadequately supervising, training, controlling, assigning, and disciplining

employees including County Jail staff; 24 (d) Routinely neglecting and ignoring gravely ill inmates and enabling the custom and practice of 25 medically distressed inmates to rely upon themselves to seek emergency medical treatment; (e) Engaging in the custom and practice of discriminating against chronically ill inmates and 26 withholding emergency medical treatment until an inmate is at a near-death condition; (f) Routinely preventing inmates access to medical doctors, due to a custom and practice of a failed booking policy; 27 (g) Routinely denying to treat more severe co-morbid medical conditions due to a “one condition at a 28 time” medical policy; and (h) Routinely failing to train correctional staff to take appropriate measures to ensure drugs are not smuggled into jail facilities. (Id.) 1 Although an official policy need not have “received formal approval through the body’s 2 official decisionmaking channels,” a municipality cannot be liable under § 1983 unless 3 an action taken under that express policy caused a constitutional tort. *Monell*, 436 U.S. 4 at 691. 5 Of the eight policies and practices that Plaintiffs identify, only two describe 6 express policies: “[r]outinely preventing inmates access to medical doctors, due to a 7 custom and practice of a failed booking policy” and [r]outinely denying to treat more 8 severe co-morbid medical conditions due to a ‘one condition at a time’ medical policy.” 9 (FAC ¶¶ 104(f)–(g).) These two policies are not sufficiently alleged. Plaintiffs do not 10 explain what the “failed booking policy” is; the assertion that it is a *Monell* violation is 11 the only mention of a failed booking policy in the entire First Amended Complaint. 12 (FAC ¶ 104(f).) Thus, Plaintiffs fail to prove that the “failed booking policy” exists. 13 See *Waggy*, 594 F.3d at 713–14. Plaintiffs also fail to explain the “one condition at a 14 time” medical policy or how it amounts to deliberate indifference, and thus, 15 constitutional deficiency. *Herd v. County of San Bernardino*, 311 F. Supp. 3d 1157, 16 1168 (C.D. Cal. 2018) (dismissing *Monell* claim because plaintiffs did “not explain how 17 the alleged policies are deficient or reflect on how the custom or policy amounted to 18 deliberate indifference”). For these reasons, Plaintiffs fail to state a claim based on an 19 improper express policy. 20 Next, one of Plaintiffs’ remaining six policies and practices describes a 21 non-formal policy of action: “[e]ngaging in the custom and practice of discriminating 22 against chronically ill inmates and withholding emergency medical treatment until an 23 inmate is at a near-death condition.” (FAC ¶ 104(e).) Absent a formal governmental 24 policy, a plaintiff must show a longstanding practice or custom that is “so permanent 25 and well settled as to constitute a ‘custom or usage’ with the force of law.” *City of St. 26 Louis v. Praprotnik*, 485 U.S. 112, 127 (1988). An improper custom or practice claim 27 “may not be predicated on isolated or sporadic incidents” but must instead “be founded 28 upon practices of sufficient duration, frequency[,] and consistency that the conduct has 1 become a traditional method of carrying out policy.” *Trevino v. Gates*, 99 F.3d 911, 2 918 (9th Cir. 1996). Here, however, Plaintiffs do not allege any facts to support a 3 “custom and practice of discriminating against chronically ill inmates,” (FAC ¶ 104(e)), 4 much less any that come close to alleging that the “conduct has become a traditional 5 method of carrying out policy,” *Trevino*, 99 F.3d at 918. The factual allegations only 6 discuss Morgan’s medical care and the circumstances surrounding his death.

This 7 single instance does not give rise to a plausible inference that a pattern of discrimination 8 against chronically ill inmates exists. See *Saved Mag. v. Spokane Police Dep’t*, 19 F.4th 9 1193, 1201 (9th Cir. 2021) (holding that a single incident of constitutional violation is 10 not sufficient to establish improper custom). Thus, Plaintiffs fail to state a claim based 11 on an improper non-formal policy of action. 12 Finally, Plaintiffs’ remaining five “policies and practices” describe policies of 13 inaction, rather than policies of action. (FAC ¶¶ 104(a)–(d), (h).) “[A] policy of 14 inaction is based on a government body’s ‘failure to implement procedural safeguards 15 to prevent constitutional violations.’” *Jackson v. Barnes*, 749 F.3d 755, 763 (9th Cir. 16 2014) (quoting *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1143 (9th Cir. 2012)). 17 Plaintiffs must first show that the “policy ‘amounts to deliberate indifference’ to the 18 plaintiff’s constitutional right.” *Tsao*, 698 F.3d at 1143 (quoting *Oviatt v. Pearce*, 19 954 F.2d 1470, 1474 (9th Cir. 1992)). Similar to a deliberate indifference cause of 20 action, a plaintiff must demonstrate that the defendant “was on actual or constructive 21 notice that its omission would likely result in a constitutional violation.” *Jackson*, 22 749 F.3d at 763 (quoting *Tsao*, 698 F.3d at 1145). Plaintiffs must then show that “the 23 policy caused the violation in the sense that the municipality could have prevented the 24 violation with an appropriate policy.” *Id.* (quoting *Tsao*, 698 F.3d at 1143). 25 Of the five policies and practices describing policies of inaction, three allege that 26 the County failed to implement appropriate procedures regarding medical care. (FAC 27 ¶¶ 104(a)–(b), (d).) The Court already found that Plaintiffs’ allegations of deliberate 28 indifference with regards to Morgan’s medical care are deficient. Instead, the factual 1 allegations demonstrate that, even in the light most favorable to Plaintiffs, the County’s 2 medical staff exercised due care. As Plaintiffs provide no other allegations relating to 3 the County’s medical staff providing care, the Court also finds that Plaintiffs fail to state 4 a claim that the County was deliberately indifferent to the risk of overdose. 5 This leaves two remaining policies of inaction. The first, alleging that the County 6 failed to supervise, train, control, assign, and discipline employees, is too vague to state 7 a claim. (FAC ¶ 104(c).) It is unclear what specifically the County failed to do, and 8 how it led to a violation of Morgan’s constitutional rights. Thus, it fails due to lack of 9 specificity. *Iqbal*, 556 U.S. at 678. 10 However, the last remaining policy of inaction—that the County “[r]outinely 11 fail[ed] to train correctional staff to take appropriate measures to ensure drugs are not 12 smuggled into jail facilities”—is sufficiently pleaded for the same reasons that Plaintiff 13 sufficiently pleaded the third cause of action, failure to train. (FAC ¶ 104(h).) 14 Specifically, the factual allegations detail a pattern of drug incidents and overdoses, lead 15 to the plausible inference that the County had “actual or constructive notice” that its 16 failure to address the issue of drug proliferation “would likely result in a constitutional 17 violation.” *Jackson*, 749 F.3d at 763. Further, as noted earlier, Plaintiffs adequately 18 allege that the County “could have prevented the violation” through further training and 19 oversight of its jailers. *Id.* Thus, the Court finds that Plaintiffs plausibly allege this 20 policy of inaction as a potential Monell violation. 21 For these reasons, the Court GRANTS IN PART and DENIES IN PART the 22 Motion as to Plaintiffs’

fourth cause of action. Specifically, the Court DISMISSES the 23 fourth cause of action WITH LEAVE TO AMEND, except to the extent Plaintiffs 24 premise it on the County's routine failure to train jail staff to stop drug proliferation, 25 which survives dismissal. (FAC ¶ 104(h).) 26 (c) Ratification (Count 5) 27 Plaintiffs' last Monell claim is based on ratification. A municipality may be liable 28 under § 1983 when "an official with final policy-making authority ratified a 1 subordinate's unconstitutional decision or action and the basis for it." *Gillette*, 979 F.2d 2 at 1346–47. 3 Here, Plaintiffs' fourth cause of action fails because it is vague and conclusory. 4 First, Plaintiffs allege that the County and Doe Defendants ratified improper policies 5 through an "Inter-Disciplinary Mortality Review." (FAC ¶ 111.) However, Plaintiffs 6 provide no facts alleging what this Review is. Thus, the Court cannot ascertain how the 7 County and Doe Defendants allegedly ratified improper policies. Second, Plaintiffs 8 allege that several Doe Defendants "ratified the defendants' conduct." (*Id.*) However, 9 it is unclear what exact conduct Doe Defendants ratified. Further, Plaintiffs allege that 10 Doe Defendants acted with "the complete authority and ratification of their principal," 11 the County, (*id.* ¶ 26), which means that they necessarily lack "final policy-making 12 authority" sufficient for ratification liability, *Gillette*, 979 F.2d at 1346–47. 13 For these reasons, the Court GRANTS the Motion and DISMISSES Plaintiffs' 14 fifth cause of action. The Court dismisses the cause of action WITH LEAVE TO 15 AMEND only as to the claim against the County, and WITHOUT LEAVE TO 16 AMEND as to the claim against the Doe Defendants. 17 3. Interference with Familial Relations (Count 6) 18 Plaintiffs' sixth cause of action asserts interference with familial relations under 19 the Fourteenth Amendment. (FAC ¶¶ 114–21.) Specifically, Plaintiffs argue that 20 Individual and Doe Defendants' actions interfered in Plaintiffs' familial relationship 21 with Morgan. (*Id.*) 22 The Fourteenth Amendment confers a "substantive due process right to family 23 integrity or to familial association." *Rosenbaum v. Washoe County*, 663 F.3d 1071, 24 1079 (9th Cir. 2011). To state a claim for interference with familial relations, a plaintiff 25 must allege that state actors engaged in conduct that "shocks the conscience." *Porter v. Osborn*, 546 F.3d 1131, 1137 (9th Cir. 2008). Where "actual deliberation is 27 practical," a state actor's conduct is conscience-shocking when they act with deliberate 28 indifference. *Wilkinson v. Torres*, 610 F.3d 546, 554 (9th Cir. 2010). A state actor acts 1 with deliberate indifference when they "recognize[] the unreasonable risk and actually 2 intend[] to expose the plaintiff to such risks without regard to the consequences to the 3 plaintiff." *Herrera v. L.A. Unified Sch. Dist.*, 18 F.4th 1156, 1158 (9th Cir. 2021) 4 (alterations in original). 5 First, as the Court finds that Plaintiffs do not adequately allege deliberate 6 indifference against Individual Defendants in Plaintiffs' second cause of action, the 7 Court also finds that Plaintiffs do not adequately allege that Individual Defendants 8 engaged in conscience-shocking conduct. Second, as the Court finds that Plaintiffs do 9 adequately allege deliberate indifference against Doe Defendants in Plaintiffs' first 10 cause of action, the Court also finds that Plaintiffs adequately allege that Doe 11 Defendants engaged in conscience-shocking conduct. Specifically, Plaintiffs' 12 allegations, which support that Doe Defendants were

deliberately indifferent to the issue 13 of the proliferation of dangerous drugs, also support the inference that Doe Defendants 14 actually knew of and consciously disregarded the risk that proliferation of dangerous 15 drugs posed to Morgan’s familial rights. See *Herrera*, 18 F.4th at 1158–59 (“[A] state 16 actor needs to know that something is going to happen but ignore the risk and expose 17 the plaintiff to it.” (citation modified)). 18 For these reasons, the Court GRANTS IN PART and DENIES IN PART the 19 Motion as to the sixth cause of action. Specifically, the Court DISMISSES Plaintiffs’ 20 sixth cause of action as to Orji WITH LEAVE TO AMEND, and as to Abass and 21 Zubair WITHOUT LEAVE TO AMEND. However, the sixth cause of action 22 survives against Doe Defendants. 23 B. State Causes of Action 24 Plaintiffs’ remaining causes of action are brought under state law. 25 1. Negligence (Count 7) 26 Plaintiffs’ seventh cause of action asserts negligence against Doe Defendants and 27 the County. (FAC ¶¶ 122–30.) Defendants only move to dismiss the cause of action as 28 brought against the County. (Mot. 11–12.) 1 California Government Code section 815(a) “bars all nonstatutory, common-law 2 tort causes of action against public entities.” Courts have noted that there is “no 3 statutory basis under California law for declaring [a governmental] entity directly liable 4 for negligence.” *Johnson v. Shasta County*, 83 F. Supp. 3d 918, 936 (E.D. Cal. 2015). 5 Indeed, Plaintiffs concede that their direct-liability negligence claims against the 6 County are not cognizable under California law absent statutory authorization. 7 (Opp’n 9.) Thus, the Court GRANTS the Motion and DISMISSES Plaintiffs’ seventh 8 cause of action WITHOUT LEAVE TO AMEND as to only the County. The cause 9 of action survives against Doe Defendants. 10 2. Bane Act (Count 8) 11 To state a Bane Act cause of action, a plaintiff must show that the defendant 12 interfered with their constitutional rights “by threat, intimidation, or coercion.” Cal. 13 Civ. Code § 52.1(b). Unlike a § 1983 cause of action, the Bane Act requires a plaintiff 14 to prove the defendant acted with specific intent to interfere with the plaintiff’s rights. 15 *Reese v. County of Sacramento*, 888 F.3d 1030, 1044 (9th Cir. 2018). Specific intent 16 may be shown through evidence that the defendant acted in “reckless disregard” of the 17 plaintiff’s constitutional rights. *Id.* at 1045. 18 Plaintiffs fail to state a Bane Act cause of action. The crux of Plaintiffs’ claim is 19 that Individual and Doe Defendants recklessly disregarded Morgan’s potential medical 20 needs. The Court has explained how Plaintiffs fail to plead that Morgan’s medical care 21 was deficient and that Individual Defendants recklessly disregarded Morgan’s medical 22 needs. For the same reasons, Plaintiffs fail to plead that Defendants specifically 23 intended, through reckless disregard or otherwise, to deprive Morgan of his 24 constitutional rights by disregarding his potential medical needs. 25 For these reasons, the Court GRANTS the Motion and DISMISSES Plaintiffs’ 26 eighth cause of action as to Doe Defendants and Orji WITH LEAVE TO AMEND, 27 and as to Abass and Zubair WITHOUT LEAVE TO AMEND. 28 1 3. Failure to Summon Medical Care (Count 9) 2 Plaintiffs bring their ninth cause of action under California Government Code 3 section 845.6. (FAC ¶¶ 144–48.) This section authorizes suits against public 4 employees or entities if a public employee “knows or has reason to know that the 5 prisoner is in need of immediate medical care” and “fails

to take reasonable action to 6 summon such medical care.” Cal. Gov’t Code § 845.6. Plaintiff asserts this cause of 7 action against Individual and Doe Defendants and also contends that the County is 8 vicariously liable. (FAC ¶ 147.) 9 In their Motion, Defendants assert they are immune because California 10 Government Code section 815(a) “bars all nonstatutory, common-law tort causes of 11 action against public entities.” (Mot. 11–12.) However, section 845.6 clearly carves 12 out an exception for a public entity’s failure to summon medical care “where the 13 [tortfeasor] employee is acting within the scope of his employment.” Defendants’ 14 citation to California Government Code section 844.6 fares no better. (Mot. 11–12.) 15 While section 844.6 states that a public entity is not liable for a prisoner’s injuries, it is 16 expressly subject to the exception quoted above from section 845.6. See Cal. Gov’t 17 Code § 844.6(a) (“[E]xcept as provided in . . . [section] 845.6 . . . a public entity is not 18 liable for” a prisoner’s injuries.). Thus, neither section Defendant cites forecloses 19 Plaintiffs’ failure to summon medical care claim. 20 Seemingly recognizing this, in their Reply brief, Defendants appear to convert 21 their immunity argument into a lack of factual sufficiency argument. (Reply 6, Dkt.

22 No. 30.) As Defendants did not raise this argument in their Motion, the Court declines 23 to consider it. See *Zamani v. Carnes*, 491 F.3d 990, 997 (9th Cir. 2007) (“The district 24 court need not consider arguments raised for the first time in a reply brief.”). 25 For these reasons, the Court DENIES Defendants’ Motion as to Plaintiffs’ ninth 26 cause of action. 27 28

## 1 V. CONCLUSION

2 For the reasons discussed above, the Court GRANTS IN PART and DENIES 3 IN PART Defendants’ Motion. (Dkt. No. 26.) Specifically, the Court: 4 DISMISSES Plaintiffs’ second cause of action WITH LEAVE TO AMEND 5 as to Orji and WITHOUT LEAVE TO AMEND as to Abass and Zubair; 6 DISMISSES Plaintiffs’ third cause of action WITHOUT LEAVE TO 7 AMEND only as to allegations that the County failed to train its medical staff 8 to treat drug abuse; 9 DISMISSES Plaintiffs’ fourth cause of action WITH LEAVE TO AMEND 10 as to every policy alleged except the alleged policy of inaction that the County 11 failed to “train correctional staff to take appropriate measures to ensure drugs 12 are not smuggled into jail facilities,” which survives Defendants’ Motion 13 (FAC ¶ 104(h)); 14 DISMISSES Plaintiffs’ fifth cause of action WITH LEAVE TO AMEND 15 as to the County and WITHOUT LEAVE TO AMEND as to Doe 16 Defendants; 17 DISMISSES Plaintiffs’ sixth cause of action WITH LEAVE TO AMEND 18 as to Orji and WITHOUT LEAVE TO AMEND as to Abass and Zubair, but 19 not as to Doe Defendants, against whom the cause of action survives 20 Defendants’ Motion; 21 DISMISSES Plaintiffs’ seventh cause of action WITHOUT LEAVE TO 22 AMEND only as to the County; 23 DISMISSES Plaintiffs’ eighth cause of action WITH LEAVE TO AMEND 24 as to Doe Defendants and Orji and WITHOUT LEAVE TO AMEND as to 25 Abass and Zubair; and 26 DENIES Defendants’ Motion as to Plaintiffs’ first and ninth causes of action. 27 The following causes of action survive the Motion: (1) Count 1 for deliberate 28 indifference to dangerous conditions against Doe Defendants; (2) Count 3 for failure to 1 || train to

prevent proliferation of drugs in jails against Doe Defendants; (3) Count 4 for 2 || an unconstitutional custom, practice, or policy, specifically, as to the County and its 3 || alleged failure to train correctional staff to prevent drug proliferation; (4) Count 6 for interference with familial relations against Doe Defendants; (5) Count 7 for negligence 5 || against Doe Defendants; and (6) Count 9 for failure to summon medical care against 6 || Individual and Doe Defendants. 7 Plaintiffs must file an amended complaint by FEBRUARY 3, 2026, in which 8 | case Defendants shall answer or otherwise respond within fourteen (14) days of 9 | Plaintiffs' filing. If Plaintiffs do not timely amend, then the causes of action and claims 10 || the Court dismisses with leave to amend shall be deemed dismissed with prejudice as 11 | of the lapse of Plaintiffs' filing deadline. In that event, Defendants shall answer the 12 || surviving claims in the First Amended Complaint within fourteen (14) days of the lapse 13 | of Plaintiffs' filing deadline. 14 15 IT IS SO ORDERED. 16

17 January 20, 2026 oe

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20 OTIS D. GHT, II

UNITED STATES DISTRICT JUDGE

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