

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

**Jamel Burt v. Nicolai Ramos, in his individual capacity; County of
San Diego; Michael Alcarion, in his individual capacity; and Does 1–**

5

Burt v. Ramos, No. 3:24-cv-00662-CAB-VET (S.D. Cal. Nov. 14, 2025) · No. 3:24-cv-00662-CAB-VET ·
Decided November 14, 2025

OPINION

Burt

PER CURIAM.

1 2 3 4 5 6 7 8

UNITED STATES DISTRICT COURT

9

SOUTHERN DISTRICT OF CALIFORNIA

10 11 JAMEL BURT Case No.: 3:24-cv-00662-CAB-VET 12 Plaintiff,

13 ORDER GRANTING IN PART AND

14 v. DENYING IN PART COUNTY’S

MOTION TO DISMISS; ORDER

15 NICOLAI RAMOS, in his individual

GRANTING ALCARION’S MOTION

capacity; COUNTY OF SAN DIEGO;

16 TO DISMISS

MICHAEL ALCARION, in his individual 17 capacity; and DOES 1–5, 18 Defendants. [Doc. Nos. 42, 43] 19 20 On April 10, 2024, Plaintiff Jamel Burt (“Plaintiff”) brought a lawsuit pursuant to 21 42 U.S.C. § 1983 and other causes against Defendant Nicolai Ramos (“Ramos”) and 22 Defendant County of San Diego (the “County”). [Doc. No. 1 (“Compl.”).] Without 23 seeking leave from the Court, Plaintiff filed an amended complaint on November 27, 2024 24 against Ramos and the County, as well as Defendants Michael Alcarion (“Alcarion”), 25 Matthew Glisson, David Perkins, Brian Nevins, and Does 1–5 (the “Doe Defendants”). 26 [Doc. No. 17.] Later that same day, Plaintiff withdrew the amended complaint. [Doc. No. 27 28 18.] Then, on December 3, 2024, Plaintiff filed a second federal action which named 29 Alcarion, Matthew Glisson, David Perkins, Brian Nevins, and the Doe Defendants. Burt 30 v. County of San Diego, No. 24-CV-2255-CAB (S.D. Cal. Dec. 3, 2024) (“Burt II”). With 1 leave from the Court, [see generally Doc. No. 33], Plaintiff filed another first amended 2 complaint (“FAC”).¹ [Doc. No. 35.] The FAC names Ramos, the County, Alcarion and

3 Does 1–5 as defendants and states causes of action pursuant to 42 U.S.C. § 1983, state law,
4 and the Bane Act. 5 On May 13, 2025, Ramos filed an answer to the FAC. [Doc. No. 41.] The
County 6 and Alcarion each filed a motion to dismiss the FAC. [Doc. Nos. 42–43.] The Court 7
PARTIALLY GRANTS the County’s motion to dismiss. The Court GRANTS 8 Alcarion’s motion
to dismiss. 9

10 I. FACTUAL ALLEGATIONS

11 The Court takes the alleged material facts as true and construes them in the light 11 most
favorable to Plaintiff. *Stoner v. Santa Clara Cnty. Off. of Educ.*, 502 F.3d 1116, 1120 12 13 (9th
Cir. 2007). 14 Plaintiff alleges that on December 18, 2022, Ramos conducted an investigative 15
traffic stop in San Diego County involving Plaintiff as the passenger of the vehicle. [FAC 16 ¶ 1.]
During that stop, Plaintiff claims that he was handcuffed and viciously slammed into 17 the
concrete because, according to him, Plaintiff refused to answer Ramos’s questions. 18 [See *id.* at
¶¶ 2–3.] Specifically, Plaintiff alleges that Ramos “use[d] . . . excessive and 19 unnecessary force
includ[ing], but . . . not limited to: grabbing and jerking the handcuffed 20 Plaintiff and slamming
him face first into a concrete sidewalk, knowing that [Plaintiff] was 21 handcuffed behind his
back and unable to break his fall.” [FAC at ¶ 47.] According to the 22 complaint, Ramos’ conduct
resulted in two broken teeth, a sprained right shoulder, wrist 23 sprains, and contusions on
Plaintiff’s chest wall and right foot. [FAC at ¶¶ 29–30.] 24 Plaintiff also alleges the County
maintained a de facto policy of allowing its deputies 25 to use force on citizens who were in
restraints. [*Id.* at ¶ 31.] And Plaintiff alleges 12 other 26 27 instances where the County knew of
its deputies using excessive force on citizens who 28 were already restrained but failed to
supervise, discipline, or train their deputies. [*Id.* at 29 30 1 ¶ 33.] Plaintiff alleges the County was
aware of several cases where similar allegations 2 have been alleged. [*Id.* at ¶¶ 32–33.]

3 II. LEGAL STANDARD

4 At the pleading stage, the Court looks to whether Plaintiff has plausibly stated a 5 claim: an
exercise that draws on judicial experience and common sense. *Eclectic Props. 6 E., LLC v.*
Marcus & Millichap Co., 751 F.3d 990, 995 (9th Cir. 2014). Fed. R. Civ. P. 7 12(b)(6) permits a
party to file a motion to dismiss for “failure to state a claim upon which 8 relief can be granted.”
“To survive a motion to dismiss, a complaint must contain sufficient 9 factual matter . . . to ‘state a
claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 10 556 U.S. 662, 678 (2009)
(quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). 11 “Vague and conclusory
allegations” concerning government involvement in civil rights 12 13 violations are insufficient to
withstand a motion to dismiss. *Ivey v. Bd. of Regents of Univ. 14 of Alaska*, 673 F.2d 266, 268
(9th Cir. 1982).

15 III. ANALYSIS

16 Plaintiff’s FAC presents seven causes of action under Section 1983: (1) excessive 17 force, (2)
retaliation, (3) false arrest, (4) failure to train, (5), failure to supervise, (6) failure 18 to discipline,
and (7) Monell liability. The FAC also brings an eighth cause of action of 19 assault and battery

and a ninth cause of action of a violation of Cal. Civil Code § 52.1 (the 20 “Bane Act”). 21 The County moves to dismiss the fourth, fifth, sixth, and seventh claims against it. 22 The County’s motion is based on four arguments: (1) Plaintiff’s Monell claim is time- 23 barred by the statute of limitations, (2) Plaintiff’s Monell claim is time-barred by the 24 Court’s scheduling order, (3) Plaintiff’s fourth, fifth, and sixth claims fail because a 25 municipality cannot be liable under a respondeat superior theory, and (4) Plaintiff fails to 26 27 state facts sufficient to sustain a Monell claim against the County. The County did not 28 move to dismiss the Bane Act claim against it. 29 Alcarion moved to dismiss all claims against him based on four arguments: (1) 30 Plaintiff’s supervisory liability claims against Alcarion and the Doe Defendants are time- 1 barred by the statute of limitations, (2) Plaintiff’s supervisory liability claims against 2 Alcarion and the Doe Defendants are time-barred by the Court’s scheduling order, (3) 3 Plaintiff fails to state facts sufficient to support his supervisory liability claims against 4 Alcarion, and (4) Plaintiff fails to state facts sufficient to support claims against the Doe 5 Defendants. The Court takes the County’s arguments and Alcarion’s arguments in turn. 6 A. The County’s Motion to Dismiss 7 i. Timeliness of Plaintiff’s Claim Considering the Statute of 8 Limitations 9 The County argues that Plaintiff’s Monell claim is time-barred by the statute of 10 limitations. [Doc. No. 42-1 at 9.] The statute of limitations for this claim expired on 11 December 18, 2024, [id.], which is before the FAC was filed on April 29, 2025. The 12 13 County also notes that Plaintiff did not seek leave to amend his complaint to raise the 14 Monell claim until April 10, 2025. [Id. at 9–10.] 15 Plaintiff does not dispute that the FAC was filed after December 18, 2024, but 16 instead argues that the FAC relates back to the date of the original complaint under Fed. R. 17 Civ. P. 15(c)(1)(B), which was April 10, 2024. [Doc. No. 44 at 11–12.] Under Fed. R. 18 Civ. P. 15(c)(1)(B), “[a]n amendment to a pleading relates back to the date of the original 19 pleading when . . . the amendment asserts a claim or defense that arose out of the conduct, 20 transaction, or occurrence set out—or attempted to be set out—in the original pleading.” 21 Plaintiff argues the Court should therefore consider the FAC as filed on April 10, 2024 in 22 assessing whether Plaintiff brought the Monell claim within the statute of limitations. 23 [Doc. No. 44 at 12.] 24 Plaintiff’s original complaint, filed in April 2024, named the County under a theory 25 of respondeat superior and Cal. Code § 815.2(a). [Id.; see also Compl.] Plaintiff therefore 26 27 contends the added Monell claim rises out of the same “conduct, transaction or occurrence” 28 as pleaded in the original complaint. The County argues that Plaintiff’s original complaint 29 only alleged facts having to do with his claim of constitutional violations by Deputy Ramos 30 1 and the County’s vicarious liability for those actions—not a Monell claim. [Doc. No. 45 2 at 4.] 3 The Ninth Circuit has affirmed that “state law, ‘not the Federal Rules of Civil 4 Procedure, governs whether in a Section 1983 action an amended complaint relates back 5 to the filing of the original complaint.’” *Palmer v. Arizona*, No. 2:09-CV-01791-JWS, 6 2011 WL 3290602, at *3 (D. Ariz. Aug. 1, 2011) (quoting *Ortiz v. City of Imperial*, 884 7 F.2d 1312, 1314 (9th Cir. 1989)). Therefore, the Court turns to California law and its 8 doctrine of relation back. Under the doctrine of relation back, a court deems an amended 9

complaint to have been filed at the time of an earlier complaint. *Hutcheson v. Superior* 10 Ct., 74. Cal.App.5th 932, 940 (2022). The doctrine requires that the amended complaint 11 “(1) rest on the same general set of facts, (2) involve the same injury, and (3) refer to the 12 13 same instrumentality, as the original [complaint].” *Norgart v. Upjohn Co.*, 21 Cal. 4th 383, 14 409 (1999). 15 To determine whether an amended complaint rests on the same general set of facts 16 for purposes of the statute of limitations, the most important consideration is whether the 17 original pleading gave the defendant adequate notice of the claim. *Hutcheson*, 74. 18 Cal.App.5th at 940. “An amended complaint relates back to the original complaint even if 19 the plaintiff alleges a new legal theory or cause of action, so long as the amended complaint 20 is based on the same general set of facts.” *Id.* (emphasis added). The County argues that 21 because the original complaint did not provide notice to the County of any defect in its 22 policies or customs, or lapse in its training of deputies, the County did not have adequate 23 notice of the claims against it. [Doc. No. 45 at 4.] 24 The Court does not find the County’s argument compelling. First, Plaintiff pleaded 25 that “Defendant San Diego County employed Ramos as a deputy sheriff and is liable for 26 27 Ramos’ conduct[.]” [Compl. ¶ 8.] Next, Plaintiff pleaded that “The County of San Diego 28 is responsible for the acts of its employees within the course and scope of their 29 employment.” [Id. at ¶ 37.] Third, Plaintiff pleaded that “[b]y engaging in the acts alleged 30 above, Defendants Ramos and County of San Diego denied those rights to Plaintiff, thus 1 giving rise to claims for damages[.]” [Id. at ¶ 47.] Finally, Plaintiff pleaded that “the 2 County is responsible for compensation for Ramos’ actions.” [Id. at ¶ 51]. Taken together, 3 these claims meet California’s standard for relation back. Both complaints plead the same 4 general set of facts and use Ramos as the instrumentality for the injury. See *Norgart*, 21 5 Cal. 4th at 409. The FAC involves the same injury to Plaintiff and does not plead an 6 additional injurious incident. See *id.* Therefore, the Court finds that the Monell claim 7 against the County relates back to the original complaint. 8 ii. Timeliness of Plaintiff’s Claim Considering the Court’s Scheduling 9 Order 10 The County next argues that because Plaintiff cannot demonstrate good cause for his 11 failure to file an amended complaint by the December 2, 2024 deadline set by the Court’s 12 13 scheduling order, [Doc. No. 12], the Court should dismiss the Monell claim against the 14 County. [Doc. No. 42 at 10–11.] The County argues that Plaintiff knew of the deadline 15 because he filed the Burt II claim before the statute of limitations expired and therefore 16 should not be excused for missing the deadline here. [Doc. No. 42-1 at 10–11.] Plaintiff 17 replies that filing his amended complaint late with leave from the Court, [Doc. No. 33], is 18 not grounds for dismissing the Monell claim. 19 If a plaintiff seeks to amend a complaint after the deadline established by a pretrial 20 scheduling order, Fed. R. Civ. P. 16 requires that such a request to amend must show good 21 cause for not having amended the complaint within the time specified by the court, as well 22 as excusable neglect if seeking to move after the deadline has already passed. *Coleman v. 23 Quaker Oats Co.*, 232 F.3d 1271, 1294 (9th Cir. 2000); *Nangle v. Penske Logistics, LLC*, 24 No. 3:11-CV-00807-CAB-BLM, 2016 WL 9503736, at *1–2 (S.D. Cal. July 20, 2016). 25 Plaintiff set forth

grounds for finding good cause and excusable neglect in his briefing 26 27 accompanying the request to amend. [See Doc. No. 31 at 7–12.] The Court granted 28 Plaintiff’s motion to file the FAC. [Doc. No. 33.] The County’s motion to dismiss on this 29 ground is an attempt to re-visit that decision, which the Court declines to do. 30 /// 1 iii. Respondeat Superior Theory 2 Plaintiff named the County as a defendant in its fourth, fifth, and sixth causes of 3 action alleging liability based on failure to train, failure to supervise, and failure to 4 discipline. The County argues that a public entity can only be held liable for its own actions 5 under Section 1983. [Doc. No. 42-1 at 12.] 6 In *Monell v. Dep’t of Soc. Servs. of City of New York*, the Supreme Court held that 7 “a municipality cannot be held liable solely because it employs a tortfeasor—or, in other 8 words, a municipality cannot be held liable under § 1983 on a respondeat superior theory.” 9 436 U.S. 658, 691 (1978) (emphasis in original). Plaintiff acknowledges that the County 10 is liable for constitutional violations under Section 1983 only pursuant to *Monell* and agrees 11 to remove the County from claims four through six. [Doc. No. 44 at 18 n.6.] The Court 12 13 GRANTS the motion to dismiss the County with respect to the fourth, fifth and sixth 14 causes of action. 15 iv. Plaintiff’s *Monell* Claim 16 To survive a motion to dismiss a claim under Section 1983, plaintiffs must 17 sufficiently allege facts “(1) that [the plaintiff] possessed a constitutional right of which he 18 was deprived; (2) that the municipality had a policy; (3) that this policy ‘amounts to 19 deliberate indifference’ to the plaintiff’s constitutional right; and (4) that the policy is the 20 ‘moving force behind the constitutional violation.’” *Van Ort v. Est. of Stanewich*, 92 F.3d 21 831, 835 (9th Cir. 1996) (quoting *City of Canton, Ohio v. Harris*, 489 U.S. 378, 389 (1989) 22 (alteration in original)). 23 “Where a court fails to adhere to rigorous requirements of culpability and causation, 24 municipal liability collapses into respondeat superior liability.” *Bd. of Cnty. Comm’rs v. 25 Brown*, 520 U.S. 397, 415 (1997). Put differently, “a municipality sued under Section 1983 26 27 is not subject to vicarious liability for the acts of its agents[.]” *Duvall v. Cnty. of Kitsap*, 28 260 F.3d 1124, 1141 (9th Cir. 2001). 29 /// 30 /// 1 a. Official County Policy 2 Following *Monell*, “it is well-settled that in claims brought under 42 U.S.C. § 1983, 3 municipalities are liable only for constitutional violations resulting from an official ‘policy 4 or custom.’” *Fed’n of Afr. Am. Contractors v. City of Oakland*, 96 F.3d 1204, 1216 (9th 5 Cir. 1996) (quoting *Monell*, 436 U.S. at 694). “The ‘first inquiry in any case alleging 6 municipal liability under Section 1983 is the question whether there is a direct causal link 7 between a municipal policy or custom and the alleged constitutional deprivation.’” *Castro 8 v. Cnty. of Los Angeles*, 833 F.3d 1060, 1075 (9th Cir. 2016) (en banc) (quoting *City of 9 Canton, Ohio*, 489 U.S. at 392). “[I]t is not enough for a § 1983 plaintiff merely to identify 10 conduct properly attributable to the municipality. The plaintiff must also demonstrate that, 11 through its deliberate conduct, the municipality was the ‘moving force’ behind the injury 12 13 alleged.” *Brown*, 520 U.S. at 404 (emphasis in original). “A plaintiff cannot prove the 14 existence of a municipal policy or custom based solely on the occurrence of a single 15 incident of unconstitutional action by a non-policymaking employee.” *Davis v. City of 16 Ellensburg*, 869 F.2d 1230, 1233–34 (9th Cir. 1989)

(emphasis removed); see also *City of Canton*, 489 U.S. at 391 (“[A]dequately trained officers occasionally make mistakes; the fact that they do says little about the training program or the legal basis for holding the city liable.”). The County argues that the FAC fails to state a Monell claim because Plaintiff does not allege specific facts regarding the County’s alleged policy of using force on unrestrained individuals. [Doc. No. 42-1 at 15.] But the FAC alleges that the County “maintained a de facto policy of allowing its deputies to use force on citizens who were in restraints” and “maintained a well-settled custom or practice of allowing its deputies to use unnecessary force on individuals in handcuffs.” [Doc. No. 35 at ¶¶ 31–32.] Plaintiff also alleges the County was specifically aware of such a policy by inter alia, citizen complaints, newspaper articles, lawsuits, and settlements. [Id. at ¶¶ 37–38.] Finally, Plaintiff alleges it was “this history of permitting the use of force on restrained individuals, including repeat instances of use of excessive force by Defendant Ramos, that was the moving force behind 1 Ramos slamming Mr. Burt face first into the ground while Mr. Burt’s hands were 2 handcuffed behind his back and the resultant smashing of Mr. Burt’s front teeth.” [Id. at 3 ¶ 42.] 4 The County argues that the other cases of alleged excessive force on restrained 5 suspects cited by Plaintiff actually resulted in no finding of excessive force and dismissal 6 following a settlement or have yet to be adjudicated. [Doc. No. 45 at 8–9.] At this time, 7 the Court will not delve into the specifics of each of these cases or construe any settled 8 cases in favor of either party. Construing the allegations in the light most favorable to 9 Plaintiff, at this stage of the proceedings, the Court finds that Plaintiff has plausibly alleged 10 that the County has a custom or practice of allowing unnecessary force on restrained 11 individuals, the County was on notice of this custom, and the custom was the moving force 12 13 behind Plaintiff’s alleged injuries. Accordingly, the County’s motion to dismiss Plaintiff’s 14 Monell claim for failure to demonstrate the existence of a policy or custom that could have 15 been a moving force behind Plaintiff’s alleged injuries is DENIED.

16 b. Constitutionality of the County Policy 17 The County argues that Plaintiff does not identify an unconstitutional official policy 18 because using force on restrained individuals may be constitutional in some circumstances. 19 [Doc. No. 42-1 at 13.] In his opposition, Plaintiff argues that the Ninth Circuit has long 20 acknowledged that using significant force on restrained individuals is generally 21 unconstitutional. [Doc. No. 44 at 18.] 22 The Court agrees with Plaintiff. To state a claim for a constitutional violation under 23 Section 1983, a plaintiff “must plead facts sufficient to show that [his] claim has 24 substantive plausibility[.]” *Johnson v. City of Shelby, Miss.*, 574 U.S. 10, 12 (2014) (citing 25 *Bell Atlantic Corp.*, 550 U.S. at 544; *Ashcroft*, 556 U.S. at 662), and using significant force 26 27 on a restrained individual is frequently unconstitutional. See, e.g., *Davis v. City of Las Vegas*, 478 F.3d 1048, 1057 (9th Cir. 2007) (collecting cases); *Drummond ex rel. Drummond v. City of Anaheim*, 343 F.3d 1052, 1059 (9th Cir. 2003). The Court finds that 30 Plaintiff identified an unconstitutional policy of using significant force on restrained 1 individuals and declines to dismiss Plaintiff’s Monell claim based on a failure to identify 2 an unconstitutional official policy.

3 c. Unconstitutional Patterns or

Practices 4 Third, the County argues that the complaint does not contain sufficient 5 unconstitutional patterns or practices to state a violation. The County argues that Plaintiff's 6 citation of allegations in other lawsuits do not allege repeated constitutional violations. 7 [Doc. No. 45 at 9.] 8 As discussed in Section III.A.iv.a, supra, the FAC references 12 other cases with 9 allegations of unconstitutional excessive force used on restrained individuals. Again, the 10 Court need not delve into the specifics of each of these cases or construe any settled cases 11 in favor of either party. Construing the allegations in the light most favorable to Plaintiff 12 13 at this stage of the proceedings, the Court finds that Plaintiff has alleged that the County 14 maintained sufficient unconstitutional practices leading to Plaintiff's injuries. 15 d. Sufficiently Pled Facts for Failure to Train Claim 16 Defendant notes Plaintiff's FAC also includes a Monell claim based on a failure to 17 train theory but argues this theory is not viable. "[A]s to a municipality, 'the inadequacy 18 of police training may serve as the basis for Section 1983 liability only where the failure 19 to train amounts to deliberate indifference to the rights of persons with whom the police 20 come into contact.'" *Flores v. Cnty. of Los Angeles*, 758 F.3d 1154, 1158 (9th Cir. 2014) 21 (quoting *City of Canton*, 489 U.S. at 388). This means Plaintiff "must demonstrate a 22 conscious or deliberate choice on the part of a municipality in order to prevail on a failure 23 to train claim." *Id.* (quoting *Price v. Sery*, 513 F.3d 962, 973 (9th Cir. 2008)) (internal 24 quotation marks omitted). "Under this standard, [Plaintiff] must allege facts to show that 25 the County . . . 'disregarded the known or obvious consequence that a particular omission 26 27 in their training program would cause municipal employees to violate citizens' 28 constitutional rights.'" *Id.* at 1159 (quoting *Connick v. Thompson*, 563 U.S. 51, 61 (2011)). 29 In the failure to train context, additional instances of misconduct are usually required to 30 1 show deliberate indifference, however, a narrow range of possibilities exist where the need 2 for training is so "obvious" as to be satisfied by a single incident. *Connick*, 563 U.S. at 64. 3 As discussed above, Plaintiff alleged that the County was on notice from repeated 4 incidents that the County's training on the use of force on restrained individuals was 5 inadequate. Therefore, Plaintiff has provided enough facts such that the County will be 6 able to defend Plaintiff's Monell claim based on a failure to train. Accordingly, the 7 County's motion to dismiss Plaintiff's Monell claim based on a failure to train theory is 8 DENIED. 9 IV. Alcarion's Motion to Dismiss 10 A. Timeliness of Supervisory Liability Claims Considering the Statute of 11 12 Limitations 13 Alcarion argues that Plaintiff's Section 1983 claim against him and the Doe 14 Defendants are time-barred because they arose from constitutional violations which are 15 alleged to have occurred on December 19, 2019, and the FAC was filed after the statute of 16 limitations for this claim expired on December 18, 2024. [Doc. No. 43-1 at 9.] The original 17 complaint in Burt I did not name Alcarion or the Doe Defendants. [See generally Compl.] 18 Plaintiff acknowledges this issue but argues that Alcarion and the Doe Defendants 19 were put on notice by being named in the Burt II action. [Doc. No. 44 at 12–13.] Plaintiff 20 suggests that these claims against Alcarion and the Doe Defendants in the Burt I FAC relate 21 back to the Burt II complaint filed on December 3, 2024. [See *id.* at 13.] By

relating to 22 the December 3, 2024 complaint, Plaintiff alleges that Alcarion and the Doe Defendants 23 had notice before the statute of limitations expired. 24 As discussed in Section III.A.i, supra, the most important consideration is whether 25 the original pleading gave the defendant adequate notice of the claim. Hutcherson, 74 Cal. 26

27 App. 5th at 940. Burt II named Defendant Alcarion on the same failure to train theory as 28 the claim brought here, and Burt II had a “one-to-one factual overlap” with Burt I. [Burt 29 II, Doc. No. 14 at 4.] This Court dismissed Burt II for impermissible claim splitting, 30 meaning the same controversy existed in Burt I and Burt II. [Burt II, Doc. No. 14 at 1.] 1 And the Court said it would “consider an amended complaint in Burt I.” [Id. at 5.] 2 Therefore, the Court does not find that the Section 1983 claims against Alcarion and the 3 Doe Defendants are time-barred. 4 B. Timeliness of Supervisory Liability Claims Considering the Court’s 5 Scheduling Order 6 As discussed in Section III.A.ii, supra, the Court granted Plaintiff’s motion to file 7 the FAC. [Doc. No. 33.] Again, Alcarion’s motion to dismiss on this ground is an attempt 8 to re-visit that decision, which the Court declines to do. 9 C. Supervisor Liability Claims Against Alcarion 10 Plaintiff alleges that Defendant Alcarion was “aware of the previous incidents in 11 which deputies used excessive force on handcuffed . . . individuals” and “condoned or 12 13 acquiesced in the abusive behavior of Nicolai Ramos.” [FAC ¶¶ 65, 67.] Accordingly, 14 Plaintiff claims Alcarion is liable for damages under Section 1983.

15 Under 42 U.S.C. § 1983, supervisors are not vicariously liable for the deprivation of 16 constitutional rights by employees. Ashcroft, 556 U.S. at 676 (explaining that supervisors 17 “may not be held liable for the unconstitutional conduct of their subordinates under a theory 18 of respondeat superior”). “Under ‘limited circumstances,’ the failure to train municipal 19 employees can sustain a Monell claim.” *Manlove v. County of San Diego*, 759 F. Supp. 3d 20 1057, 1068 (S.D. Cal. 2024) (quoting *Bd. of Cnty. Comm’rs of Bryan Cnty., Okl. v. Brown*, 21 520 U.S. 397 407 (1997)). The Supreme Court has held that in order to make a claim of 22 inadequate police training, a plaintiff is required to prove that the training program was 23 deficient and was deliberately indifferent to the rights of the city’s inhabitants. *City of 24 Canton v. Harris*, 489 U.S. 378, 379 (1989). Further, to successfully plead a Section 1983 25 claim, Plaintiff must set forth facts that each defendant personally violated his 26 27 constitutional rights. See *Keates v. Koile*, 883 F.3d 1228, 1242–43 (9th Cir. 2018) 28 (explaining that a supervisor-liability theory under Section 1983 requires a showing of 29 personal involvement in the deprivation and a sufficient causal connection to the 30 supervisor’s wrongful conduct). This requires an “individualized” assessment of causality 1 to attribute conduct (or lack thereof) that allegedly forms the basis of a constitutional 2 deprivation. *Leer v. Murphy*, 844 F.2d 628, 633 (9th Cir. 1988). 3 Plaintiff has not alleged a sufficiently individualized claim against Alcarion to 4 sustain a Section 1983 failure to train claim. As previously discussed in our Burt II order, 5 Plaintiff must plausibly allege that Alcarion was deliberately indifferent to the needs of his 6 subordinates and that the failure to train caused the complained of constitutional harm. 7 [Burt II, Doc. No. 14 at 4–5]; see also *Flores*, 758

F.3d at 1158–59. Based on the FAC, it is unclear how Alcarion violated Plaintiff’s constitutional rights, other than the conclusory allegation that Alcarion was Ramos’ supervisor and therefore responsible for training him. *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (“A plaintiff must allege facts, not simply conclusions, to show that [each defendant] was personally involved in the deprivation of his civil rights.”). For example, the allegation that Alcarion “through the County . . . [was] aware of the previous incidents” is an entirely conclusory allegation that is not sufficiently individualized. Therefore, the Court **DISMISSES** the claims brought against Alcarion **WITHOUT LEAVE TO AMEND**.² D. Claims Against Doe Defendants Similarly, Plaintiff must allege individualized facts to support his claim against each Doe Defendant. “As a general rule, the use of ‘John Doe’ to identify a defendant is not favored.” *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980) (citing *Wiltsie v. California Department of Corrections*, 406 F.2d 515, 518 (9th Cir. 1968)). Plaintiff alleges no facts indicating what individual involvement any Doe Defendant had relating to the constitutional claims at issue. See *Leer*, 844 F.2d at 633 (explaining that a Section 1983 claim requires an “individualized” assessment of causality). Therefore, the Court **DISMISSES** the claims brought against the Doe Defendants **WITHOUT LEAVE TO**

AMEND.³

V. CONCLUSION

For the reasons discussed above, the Court:

(1) **DENIES** the motion to dismiss Plaintiff’s seventh cause of action against the County;

(2) **GRANTS** the motion to dismiss Plaintiffs fourth, fifth, and sixth cause of action against the County for failure to train, failure to supervise, and failure to discipline;

(3) **GRANTS** the motion to dismiss the Section 1983 claims against Defendant Alcarion and the Doe Defendants. Defendant should file an answer to the operative first amended complaint by December 5, 2025. **IT IS SO ORDERED.** Dated: November 14, 2025 Hon. Cathy Ann Bencivengo United States District Judge
Again, although leave to amend is normally granted liberally, see Fed. R. Civ. P. 15(a), the Court previously provided Plaintiff with detailed instructions about the standards for bringing a Monell claim against the Doe Defendants. [See Burt II, Doc. No. 14 at 5.] Therefore, the Court dismisses the claims without leave to amend.