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12 SASHA SMITH

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KERYN STARKES

9 **UNITED STATES DISTRICT COURT**  
10 **EASTERN DISTRICT OF CALIFORNIA**

12 FAUN O’NEEL, et al.,

13 Plaintiffs,

14 v.

15 CITY OF FOLSOM, et al.,

16 Defendants.

Case No. 2:21-cv-02403-WBS-DB

**DEFENDANTS COUNTY OF  
SACRAMENTO, SASHA SMITH AND  
KERYN STARKES’ NOTICE OF  
MOTION AND MOTION FOR SUMMARY  
JUDGMENT, OR IN THE ALTERNATIVE  
PARTIAL SUMMARY ADJUDICATION  
OF ISSUES**

[Fed.R.Civ.Proc. 56]

*[Points & Authorities; Defendants’ Statement  
of Undisputed Material Facts; Declarations  
and Exhibits; Request for Judicial Notice;  
Motion to Seal filed concurrently]*

Date: April 15, 2024  
Time: 1:30 p.m.  
Ctrm: 5

Judge: Hon. William B. Shubb

Trial Date: 06/25/2024  
Action Filed: 12/24/2021

27 **TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:**

28 PLEASE TAKE NOTICE that on April 15, 2024, at 1:30 p.m. in Courtroom No. 5 (14<sup>th</sup> Floor),

1 Defendants COUNTY OF SACRAMENTO, SASHA SMITH, and KERYN STARKES  
2 (“Defendants”), by and through their attorneys of record, will and hereby do move this Court for  
3 Summary Judgment on claims asserted by Plaintiffs FAUN O’NEEL, D.O., A.O., A.T., and B.T., in  
4 the Third Amended Complaint at Doc. 49. In the alternative, Defendants request Partial Summary  
5 Judgment as to those claims which the Court deems appropriate.

6 Defendants are entitled to summary judgment as a matter of law in their favor, and against  
7 Plaintiff based upon the following:

- 8 I. Defendants Sasha Smith And Keryn Starkes Are Entitled To Summary Judgment  
9 On Plaintiffs’ Judicial Deception Claims As There Is No Evidence That They Were  
10 Deliberately Indifferent
  - 11 A. Plaintiffs Third, Fourth, And Fifth Causes of Action for Judicial Deception in  
12 the Warrants, Petitions, and Detention Report Fail Because Plaintiffs Cannot  
13 Establish Causation.
  - 14 B. Plaintiffs’ Inability to Demonstrate Causation is Further Bolstered by the  
15 Record in the Underlying Dependency Cases
  - 16 C. No Protected Familial Deprivation Occurred as a Result of the Warrant  
17 Application, Petitions, or Detention Report
- 18 II. Defendants Sasha Smith And Keryn Starkes Are Entitled To Summary Judgment On  
19 Plaintiffs’ False Imprisonment Claim
  - 20 A. In addition, Defendant Starkes and Smith’s Statements to the Court in the  
21 Warrants, Petitions, and Detention Report are Privileged pursuant to  
22 California Civil Code § 47
- 23 III. Defendant County Is Entitled To Summary Judgment On Plaintiff’s *Monell* Cause Of  
24 Action
  - 25 A. Plaintiffs Cannot Establish That an Official Policy, Custom, or Pattern of the  
26 County Was the Actionable Cause of Their Claimed Injuries
  - 27 B. Plaintiffs Cannot Establish a Failure to Adequately Train its Employees was  
28 the Actionable Cause of Their Claimed Injuries

1 C. Plaintiffs Cannot Establish *Monell* liability through Delegation or  
2 Ratification

3 IV. Defendants Sasha Smith And Keryn Starkes Are Entitled To Qualified Immunity

4 A. Plaintiffs Have Not Established Their Constitutional Rights Were Violated

5 B. The Law Was Not Clearly Established That a Social Worker Could Not Rely  
6 Upon the Information Provided to Them by Law Enforcement and Fellow  
7 Social Workers in Crafting Filings for The Juvenile Court

8 V. The Court Should Decline Supplemental Jurisdiction Over Any Remaining State  
9 Law Claims Against Defendants Smith, Starkes, And County

10 This Motion is based on this Notice of Motion, the Memorandum of Points and Authorities in  
11 Support of Defendants' Motion for Summary Judgment or in the Alternative Partial Summary  
12 Judgment, Defendants' Separate Statement of Undisputed Facts, the Declaration of Jonathan B. Paul,  
13 the Declaration of Keryn Starkes, the Declaration of Jennifer McLaren, the Request for Judicial  
14 Notice, and Motion to Seal, together with all exhibits, the pleadings and file in this action, and on  
15 such further oral or documentary evidence as may be presented at or before the hearing on this matter,  
16 if any.

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19 DATED: February 13, 2024

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Respectfully submitted,

RIVERA HEWITT PAUL LLP

*/s/Jonathan B. Paul*

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JONATHAN B. PAUL  
KRISTLENNE C. VICUNA  
Attorneys for Defendant  
COUNTY OF SACRAMENTO  
and SASHA SMITH

1 DATED: February 13, 2024

ANGELO, KILDAY & KILDUFF, LLP

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*/s/ Serena M. Warner*

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*(As authorized on 2/13/24 )*

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SERENA M. WARNER  
Attorneys for Defendant  
Keryn Starkes

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9 **UNITED STATES DISTRICT COURT**  
10 **EASTERN DISTRICT OF CALIFORNIA**

12 FAUN O’NEEL, et al.,  
13 Plaintiffs,

14 v.

15 CITY OF FOLSOM, et al.,  
16 Defendants.

Case No. 2:21-cv-02403-WBS-DB

**DEFENDANTS COUNTY OF  
SACRAMENTO, SASHA SMITH AND  
KERYN STARKES’ SEPARATE  
STATEMENT OF UNDISPUTED  
MATERIAL FACTS IN SUPPORT OF  
SUMMARY JUDGMENT, OR IN THE  
ALTERNATIVE PARTIAL SUMMARY  
ADJUDICATION OF ISSUES**

[Fed.R.Civ.Proc. 56]

Date: April 15, 2024  
Time: 1:30 p.m.  
Ctrm: No.: 5, 14<sup>th</sup> Floor  
Judge: Hon. William B. Shubb

Trial Date: 06/25/2024  
Action Filed: 12/24/2021

24 Defendants COUNTY OF SACRAMENTO, SASHA SMITH, and KERYN STARKES  
25 (“Defendants”), in support of their motion for summary judgment/summary adjudication against  
26 Plaintiffs FAUN O’NEEL, D.O., A.O., A.T., B.T. (“Plaintiff”), submit that the following facts, for  
27 the purposes of this motion only, are undisputed:

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<p>1 <b>DEFENDANTS'UNDISPUTED</b>                  2 <b>MATERIAL FACTS ("DMF") AND</b>                  3 <b>SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND</b>  <b>SUPPORTING EVIDENCE</b></p>
<p>4 1. Plaintiff A.T. had a juvenile dependency                      case in the Sacramento Superior Court of                      Sacramento, case No. 241073.</p> <p>5 Paul Decl. ¶ 5, Exhibit A                      6 Request for Judicial Notice, Exhibit A to Paul                      7 Decl.</p>	
<p>8 2. Plaintiff D.O. had a juvenile dependency                      case in the Sacramento Superior Court of                      Sacramento, case No. 241074.</p> <p>9 Paul Decl. ¶ 5, Exhibit B.                      10 Request for Judicial Notice, Exhibit B to Paul                      11 Decl.</p>	
<p>12 3. Plaintiff A.O. had a juvenile dependency                      case in the Sacramento Superior Court of                      Sacramento, case No. 241075.</p> <p>13 Paul Decl. ¶ 5, Exhibit C.                      14 Request for Judicial Notice, Exhibit C to Paul                      15 Decl.                      16</p>	
<p>17 4. Plaintiff B.T. had a juvenile dependency                      case in the Sacramento Superior Court of                      Sacramento, case No. 241076.</p> <p>18 Paul Decl. ¶ 5, Exhibit D.                      19 Request for Judicial Notice, Exhibit D to Paul                      20 Decl.                      21</p>	
<p>22 5. On December 20, 2020, D.O. told his                      sister B.T., who was 14 at the time, that Faun                      23 O'Neel choked him.</p> <p>24 Paul Decl. ¶ 16, Exhibit J: B.T. Depo. at                      25 25:18-22, 32:21-23, 33:24-34:09, 113:16-22.</p>	

<p><b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b></p>
<p>6. B.T. called 911 on December 20, 2020 because D.O. told her Faun O'Neel, their mother, had choked D.O.</p> <p>Paul Decl. ¶ 16, Exhibit J: B.T. Depo. at 25:18-22, 32:21-23, 33:24-34:09, 114:16-22.</p>	
<p>7. A.O. gave a recorded statement to Officer Spenser Heichlinger on December 20, 2020. In her statement, A.O. states that she heard choking sounds when she was in the bathroom.</p> <p>Paul Decl. ¶ 19, 22, Exhibit M: Transcription of A.O. Statement to Heichlinger at 2:18-21, 2:25-3:02; Exhibit P: COF000043.</p>	
<p>8. A.O. told Heichlinger that D.O. told her their mom had picked him up by the neck before.</p> <p>Paul Decl. ¶ 19, 22, Exhibit M: Transcription of A.O. Statement to Heichlinger at 3:05-3:19; Exhibit P: COF000043.</p>	
<p>9. A.O. told Heichlinger that the year prior, her mom pushed and smacked D.O. in the face.</p> <p>Paul Decl. ¶ 19, 22, Exhibit M: Transcription of A.O. Statement to Heichlinger at 4:04-15; Exhibit P: COF000043.</p>	
<p>10. A.O. gave a recorded statement to Officer Melanie Catanio on December 22, 2020. A.O. states that she was in the bathroom when she heard choking noises.</p> <p>Paul Decl. ¶ 20, 23, Exhibit N: Transcription of A.O. Statement to Catanio at 6:07-19, 7:18-8:02, Exhibit Q: COF000046.</p>	

<p><b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b></p>
<p>11. Folsom Police Department Officer Melanie Catanio removed the four plaintiff children from the home on December 22, 2020, and thereafter interviewed the two older children, B.T. and A.O., at the Folsom Police Department.</p> <p>Paul Decl. ¶ 13, Exhibit G: Catanio Depo. at 114:22-115:01,125:03-05.</p>	
<p>12. A.O. told Officer Catanio that D.O. told her their mom pushed him down the stairs by their mom and that her mom used the story of him falling off the bunkbed and cracking his head open to cover up what she did. D.O. told her he cracked his head open at the bottom of the stairs.</p> <p>Paul Decl. ¶ 20, 23, Exhibit N: Transcription of A.O. Statement to Catanio at 21:07-15; Exhibit Q: COF000046.</p>	
<p>13. A couple of weeks before her statement to Officer Catanio, D.O. told A.O. of another time where their mom went into his room and picked him up by his neck and hung him a few inches off the ground.</p> <p>Paul Decl. ¶ 20, 23, Exhibit N: Transcription of A.O. Statement to Catanio at 23:04-19, 23:20-24:01; Exhibit Q: COF000046.</p>	
<p>14. A.O. stated the year before, her mom pushed her up against the wall to the point of making a dent in the wall, smacked her in the face, and dug her fingernails in her arm.</p> <p>Paul Decl. ¶ 20, 23, Exhibit N: Transcription of A.O. Statement to Catanio at 24:05-22, 25:08-22; Exhibit Q: COF000046.</p>	



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<b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b>	<b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b>
<p>15. A.O. stated that her father has spanked her with a belt multiple times both with and without her clothes on and left marks, which forced her to wear stuff to cover it up in school so no one would see it.</p> <p>Paul Decl. ¶ 20, 23, Exhibit N: Transcription of A.O. Statement to Catanio at 30:02-15, 31:15-21; Exhibit Q: COF000046.</p>	
<p>16. A.O. stated that her mom has slapped her on her face throughout her life. In the past two years, she had been slapped ten or eleven times. Each time she had been hit with a belt it resulted in her having visible marks.</p> <p>Paul Decl. ¶ 20, 23 Exhibit N: Transcription of A.O. Statement to Catanio at 44:01-14, 45:15-46:01; Exhibit Q: COF000046.</p>	
<p>17. A.O. stated the belt had also been used on her brother D.O.</p> <p>Paul Decl. ¶ 20, 23, Exhibit N: Transcription of A.O. Statement to Catanio at 46:06-07, Exhibit Q: COF000046.</p>	
<p>18. Officer Catanio drove the children to a receiving facility.</p> <p>Paul Decl. ¶ 13, Exhibit G: Catanio Depo. at 114:11-21</p>	
<p>19. Social worker Keryn Starkes had never worked with Folsom Police Officer Melanie Catanio prior to her involvement with the O'Neel family.</p> <p>Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at 26:14-17.</p>	

<p>1 <b>DEFENDANTS' UNDISPUTED</b>                  2 <b>MATERIAL FACTS ("DMF") AND</b>                  3 <b>SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND</b>  <b>SUPPORTING EVIDENCE</b></p>
<p>4 20. Sasha Smith supervised Keryn Starkes at                      one time.</p> <p>5 Sasha Smith Depo. at 57:06-11.                      6 Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at                      61:21-22.</p>	
<p>7 21. The children were placed with their                      8 maternal grandmother, Ms. Canutt on                      December 24, 2020 pursuant to a Safety Plan.</p> <p>9 Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at                      10 87:20-24, 107:19-108:1 Depo. Exhibit 6.</p>	
<p>11 22. The Safety Plan was signed by social                      12 worker Keryn Starkes, Danny O'Neel, Faun                      O'Neel, and Fara Canutt on 12-24-20.</p> <p>13 Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at                      14 106:05-08, 107:19-108:01, Exhibit 6.</p>	
<p>15 23. The December 24, 2020 Safety Plan                      16 states: All contact between parents and                      17 children will be supervised by caregiver,                      18 maternal grandmother Fara Canutt; during                      19 visitation there will be no discussion or                      20 mentioning of law enforcement or CPS                      21 investigation; no one shall attempt to                      22 influence the children regarding what they                      23 should or should not say to law enforcement                      24 or CPS; there shall be no talk regarding                      25 appropriate discipline or about how the                      26 children are disciplined; no one shall ask the                      27 children what they said to law enforcement or                      CPS; the parents agree to leave the family                      home during the investigation to allow                      children to remain in the home with maternal                      grandmother Fara Canutt.</p> <p>Paul Decl. ¶ 12, Exhibit F: Sasha Smith Depo.                      at 103:20-104:10, Exhibit 6.</p>	

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<b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b>	<b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b>
<p>24. Officer Melanie Catanio ("Officer Catanio") believed the children needed to have a SAFE center interview.</p> <p>Paul Decl. ¶ 13, Exhibit G: Catanio Depo. 101:22-102:05, 160:24-161:13, 167:14-168:02.</p>	
<p>25. Law enforcement requested the SAFE center interviews of A.O. and D.O.</p> <p>Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at 124:12-16.</p>	
<p>26. Keryn Starkes did not request a SAFE Center interview for the children in this case; she did not watch the SAFE Center interviews of the children.</p> <p>Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at 29:17-19, 120:04-08, 120:15-17, 150:07-18.</p> <p>Starkes Decl. ¶ 5.</p>	
<p>27. A.T. and D.O. had a SAFE Center interview on 12-30-2020.</p> <p>Paul Decl. ¶ 13, Exhibit G: Catanio Depo. 150:02-151:20; D.O. Depo. Vol. I, 126:11-18, 127:8-14</p>	
<p>28. Officer Catanio was physically present at the SAFE Center interviews of D.O. and A.T.; she remotely observed the interviews.</p> <p>Paul Decl. ¶ 13, Exhibit G: Catanio Depo. at 150:08-14.</p>	

<p><b>DEFENDANTS'UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b></p>
<p>29. During his SAFE Center interview, D.O. stated his parents and grandmother talked to him about the SAFE center interview.</p> <p>Paul Decl. ¶ 18, 21, Exhibit L: D.O. SAFE Center Interview Transcript at 13:20-14:10, 60:24-61:20; Exhibit O: COF000053.</p> <p>D.O. Depo. Vol. I at 104:11-105:05, 106:01-23.</p>	
<p>30. During his SAFE Center interview D.O. states his mother grabbed him by the neck and carried him the kitchen and pushed his face into the food. D.O. states he was kicking when Faun O'Neel did this.</p> <p>Paul Decl. ¶ 18, 21, Exhibit L: D.O. SAFE Center Interview Transcript at 71:15-74:16; Exhibit O: COF000053.</p>	
<p>31. During the SAFE center interview, D.O. states "it was pressure" to talk to his parents and grandmother about coming to the interview because is he says the wrong thing, he "could mess this all up".</p> <p>Paul Decl. ¶ 18, 21, Exhibit L: D.O. SAFE Center Interview Transcript at 67:18-68:15; Exhibit O: COF000053.</p>	
<p>32. During his SAFE Center interview, D.O. agrees with Kandyce Seely's statement that he does not want to talk to Ms. Seely or the police because he does not want to be taken away.</p> <p>Paul Decl. ¶ 18, 21, Exhibit L: D.O. SAFE Center Interview Transcript at 78:13-23; Exhibit O: COF000053.</p>	

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<b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b>	<b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b>
<p>33. During his SAFE center interview, D.O. agrees with Ms. Seely's statement that he said he did not want to talk because he did not want to get taken away. D.O. also states he does not want to be taken away from his family.</p> <p>Paul Decl. ¶ 18, 23, Exhibit L: D.O. SAFE Center Interview Transcript at 81:22-82:10; Exhibit O: COF000053.</p>	
<p>34. During the SAFE Center interview, A.T. states:</p> <p>MINOR CHILD A.T. But, um, I knew that he -- that my mom grabbed him by the neck. MS. SEELEY: How did you know? MINOR CHILD A.T. Because, um, my mom told my brother that I grabbed -- that my mom told my brother that, no, D.O., I didn't strangle you. I grabbed you by the back of the neck because you weren't listening. MS. SEELEY: When did she tell that? MINOR CHILD A.T. Um, we were -- we were having a conversation -- MS. SEELEY: Uh-hmm. MINOR CHILD A.T.: -- um, because what happened that night. MS. SEELEY: Uh-hmm. MINOR CHILD A.T. Um, and so we were having a conversation. And my sisters came down here and, um, and my brother started talking. And my mom said, no, that's not true. That's not what happened. I grabbed you by the neck because you weren't listening. I told you, come here, come here, multiple times.</p> <p>Paul Decl. ¶ 17, 21 Exhibit K: A.T. SAFE Center Interview Transcript at 17:13-18:07; Exhibit O: COF000053.</p>	

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<b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b>	<b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b>
<p>35. A Delivered Service Log entry written by Dominique Smith states Kandyce Seely told Dominique Smith about the SAFE Center interview. The notes do not mention that D.O. lied about being choked by his mother.</p> <p>Paul Decl. ¶ 14, Exhibit H: Dominique Smith Depo at 68:08-22, 68:25-69-03, 70:01-04, 72:16-73:12, Exhibit 2.</p> <p>Paul Decl. ¶ 13, Exhibit G: Catanio Depo. at 168:04-24.</p> <p>Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at 118:01-119:07, 120:15-121:09, 151:25-152:17.</p>	
<p>36. Dominique Smith testified that based on her training, she is supposed to include the content of conversations about a case, at least in summary form, in delivered service log entries.</p> <p>Paul Decl. ¶ 14, Exhibit H: Dominique Smith Depo. at 43:07-12.</p>	
<p>37. Dominique Smith stated in her deposition that she has received training that addresses the level of honesty expected from her when preparing any kind of court-filed document. She testified that the level of honesty is to be honest.</p> <p>Paul Decl. ¶ 14, Exhibit H: Dominique Smith Depo. at 37:06-12.</p>	

<p>1 <b>DEFENDANTS'UNDISPUTED</b>                  2 <b>MATERIAL FACTS ("DMF") AND</b>                  3 <b>SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND</b>  <b>SUPPORTING EVIDENCE</b></p>
<p>3 38. Dominique Smith formed the opinion that                      4 the safety plan had not been followed because                      5 the Safety Plan said the family was not to                      6 discuss law enforcement or CPS                      7 investigations or talk about appropriate                      8 discipline during visitation and according to                      9 her notes there was a family meeting where                      10 D.O. stated the mother choked him, and the                      11 mother attempted to correct him by saying she                      12 grabbed him by the back of the neck which                      13 invoked the Safety Plan.</p> <p>14 Paul Decl. ¶ 14, Exhibit H: Dominique Smith                      15 Depo. at 68:08-22, 68:25-69-03, 70:01-04,                      16 71:25-73:12.</p>	
<p>17 39. Dominique Smith assisted Keryn Starkes                      18 in covering her cases or referrals while Keryn                      19 Starkes was out on vacation.</p> <p>20 Paul Decl. ¶ 14, Exhibit H: Dominique Smith                      21 Depo. at 52:24-53:05, 54:06-17.                      22 Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at                      23 125:15-22, 126:23-25, 159:03-05.                      24 Starkes Decl. ¶ 5.</p>	
<p>25 40. On January 6, 2021, Defendant Catanio                      26 sent an email to emergency response social                      27 worker, Dominique Smith, regarding the                      28 Special Assault Forensic Evaluation                      ("SAFE") Center interview. Officer Catanio                      notified Dominique Smith that it was apparent                      from D.O. and A.T.'s interview that the                      parents discussed the interview process with                      them and that D.O. and A.T., but especially                      D.O. had been coached on what to say and                      what not to say in their interview.</p> <p>Paul Decl. ¶ 13, Exhibit G: Catanio Depo. at                      158: 12-24; Continuing Depo. Exhibit 26.</p> <p>Paul Decl. ¶ 11, Exhibit E: Starkes Depo.                      126:03-10, 167:11-168:06.</p>	

<p>1 <b>DEFENDANTS' UNDISPUTED</b>                  2 <b>MATERIAL FACTS ("DMF") AND</b>                  3 <b>SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND</b>  <b>SUPPORTING EVIDENCE</b></p>
<p>4 41. Officer Catanio's January 6, 2021, email                      5 does not mention that D.O. recanted that he                      6 was choked during the SAFE Center                      7 interview.                      8 Paul Decl. ¶ 13, Exhibit G: Catanio Depo. at                      9 168:10-17, 168:19-24.</p>	
<p>10 42. Officer Catanio's January 6, 2021, email                      11 was eventually forwarded to Keryn Starkes on                      12 January 6, 2021.                      13 Paul Decl. ¶ 11, Exhibit E: Starkes Depo.                      14 126:03-10, 128:01-07, 167:11-168:06, Exhibit                      15 26.</p>	
<p>16 43. Keryn Starkes determined the family was                      17 violating the SAFETY plan in part because                      18 Dominique Smith told her the mother had                      19 discussed interviews with the children.                      20 Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at                      21 151:25:152:17.                      22 Starkes Decl. ¶ 5.</p>	
<p>23 44. Keryn Starkes determined the family was                      24 violating the SAFETY plan in part because of                      25 the information relayed to her by Officer                      26 Catanio.                      27 Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at                      28 126:03-10, 128:01-07, 167:11-168:06.                      Starkes Decl. ¶ 2.</p>	
<p>45. Keryn Starkes prepared and submitted                      protective custody warrants for the children                      on January 8, 2021. They were granted and                      signed by Judge Calabretta that same day.                      Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at                      108:02-09, 108:17-22, 135:14-19, Exhibit 5.                      Starkes Decl. ¶ 5.</p>	



<p>1 <b>DEFENDANTS'UNDISPUTED</b>                  2 <b>MATERIAL FACTS ("DMF") AND</b>                  3 <b>SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND</b>  <b>SUPPORTING EVIDENCE</b></p>
<p>4 46. The protective custody warrant                      applications were signed by Keryn Starkes.                       5 Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at                      6 109:16-24, Exhibit 5.</p>	
<p>7 47. Keryn Starkes prepared the Welfare and                      Institutions Code § 300 petitions ("petitions")                      8 that were filed on January 8, 2021.                       9 Paul Decl. ¶ 12, Exhibit F: Sasha Smith Depo.                      10 at 74:22-75:07, 128:04-20, 129:04-08,                      11 131:15-24, Exhibit 47.                       12 Paul Decl. at ¶ 5-9, Exhibit A: A.T.                      13 Dependency Case File at 292-295, Exhibit B:                      14 D.O. Dependency Case File at 281-284,                      15 Exhibit C: A.O. Dependency Case File at                      16 281-284, Exhibit D: B.T. Dependency Case                      17 File at 282-285.                      Request for Judicial Notice Exhibits A-D to                      Paul Decl.                       Starkes Decl. ¶ 5.</p>	
<p>18 48. Sasha Smith signed the petitions. Keryn                      Starkes filled in the language on page three of                      19 the petition and signed the Indian Child                      Welfare Act declaration on page 4.                       20 Paul Decl. ¶ 12, Exhibit F: Sasha Smith Depo.                      21 at 74:22-75:07, 128:04-20, 129:04-08.                       22 Starkes Decl. ¶ 5.</p>	
<p>23 49. Keryn Starkes wrote the detention report.                       24 Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at                      25 27:20-21.                       26 Starkes Decl. ¶ 5.</p>	

<p><b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b></p>
<p>50. Keryn Starkes and Sasha Smith both signed the Detention Report on January 11, 2021.</p> <p>Paul Decl. ¶ 12, Exhibit F: Sasha Smith Depo. at 121:13-23, Exhibit 3.</p> <p>Starkes Decl. ¶ 5.</p>	
<p>51. Keryn Starkes states she received training on the level of honesty that was expected from her when prepared any document to be filed with the Court. She states the level of honesty as to tell the truth. She also states "[y]ou don't just make up information. It has to be truthful, to the best of your knowledge."</p> <p>Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at 22:12-14, 40:08-41:11.</p>	
<p>52. The warrant applications and detention report state: A.O. reported a history of being abused by the mother and father which included being choked, spanked with a belt, and slapped in the face. A.O. stated she heard choking noises and that when her mom gets overly mad, she gets smacked, pushed, and spanked with a belt. A.O. also stated that her last spanking by her father was September or October of 2020, and she had marks and bruises on her legs and arms. The warrant applications and detention report also reference a Folsom Police Department Police Report.</p> <p>Paul Decl. ¶ 12, Exhibit F: Sasha Smith Depo. at 121:13-23, Exhibit 3: Detention Report.</p> <p>Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at 109:16-24, Exhibit 5: Warrant Applications.</p> <p>Starkes Decl. ¶ 2, 5.</p>	

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<b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b>	<b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b>
<p>53. Keryn Starkes received an email on December 22, 2020, from Folsom Police Department Senior Police Records Clerk Connie James with a copy of their police report number 20-4265.</p> <p>Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at 82:24-83:02, 91:20-92:04, 92:14-16.</p>	
<p>54. The Police report does not reference A.T.'s or D.O.'s SAFE Center interviews.</p> <p>The 8-page police report includes the following information:</p> <p>A.O. stated she heard choking sounds when she heard Faun O'Neel yelling at D.O.; D.O. said Faun O'Neel picked him up by the neck and carried him into the kitchen and pushed his face into his leftover food that had fallen on the floor; D.O. demonstrated how Faun O'Neel grabbed him by putting both his hands around his throat; D.O. stated he did not want to tell the police officers anything because he did not want them to take him away when asked if something like this had happened before; B.T. states Faun O'Neel had shoved D.O. in the past resulting in a hospital trip where he needed stitches in his head and when this happened, Faun O'Neel claimed D.O. hit his head on his bed.</p> <p>The police report also states a warrant request to charge Faun O'Neel with PC 273a(b) was completed later and it included a recommendation for the case to be forwarded to the Sacramento County DA's office for review and prosecution.</p> <p>Paul Decl. ¶ 11, Exhibit E: Starkes Depo. 25:15-26:11, 89:20-90:03, 92:14-16, 94:02-07, 117:22-118:01, 118:09-19, Exhibit 24: 12-20-20 Folsom PD Report at p. 4-7.</p>	

<p><b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b></p>
<p>55. Defendant Starkes did not know prior to submitting the warrant application that D.O. denied being choked during his SAFE Center Interview.</p> <p>Paul Decl. ¶ 11, Exhibit E: Starkes Depo. at 25:15-26:11, 81:04-07, 153:14-22.</p> <p>Starkes Decl. ¶ 5.</p>	
<p>56. Sasha Smith did not review any of the evidence or documentation such as delivered service logs, images, police reports, audio recordings, video recordings, the SAFE interviews, prior to signing the Detention Report.</p> <p>Paul Decl. ¶ 12, Exhibit F: Sasha Smith Depo. at 124:09-16, 125:14-21, 126:3-11, 138:09-11, 152:07-09.</p>	
<p>57. Defendant Smith did not know D.O. said he lied about being choked at his SAFE interview until the day of her deposition.</p> <p>Paul Decl. ¶ 12, Exhibit F: Sasha Smith Depo. at 125:14-21.</p>	
<p>58. At the Detention hearing on 01-14-21, Faun O'Neel was present and represented by attorneys David Brooks and Jomo Stewart.</p> <p>McLaren Decl. at ¶7, Exhibit B at 4:18-20, 5:09-12.</p> <p>Request for Judicial Notice, Exhibit B to McLaren Decl.</p>	

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<p><b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b></p>
<p>59. At the Detention hearing on 01-14-21, Plaintiffs A.O. and B.T. were present and represented by their Children's Law Center of California counsel, Laura Delucchi.</p> <p>McLaren Decl. at ¶7, Exhibit B at 4:15-17, 5:04-06.</p> <p>Request for Judicial Notice, Exhibit B to McLaren Decl.</p>	
<p>60. At the Detention hearing on 01-14-21, Plaintiff A.T. was present and represented by her Children's Law Center of California counsel, Jetaun Stevens.</p> <p>McLaren Decl. at ¶7, Exhibit B at 4:12-14, 5:01-03.</p> <p>Request for Judicial Notice, Exhibit B to McLaren Decl.</p>	
<p>61. At the Detention hearing on 01-14-21, D.O. was present and represented by conflict attorney Peter Perkins.</p> <p>McLaren Decl. at ¶7, Exhibit B at 4:15-17, 5:07-08.</p> <p>Request for Judicial Notice, Exhibit B to McLaren Decl.</p>	
<p>62. Faun O'Neel's attorney, Mr. Stewart, opposed the detention of the children and argued to the Court that the social worker knew but failed to include in her detention report that Faun O'Neel had completed an anger management class, she had started and completed a parenting class, started individual therapy, and had a clean drug test.</p> <p>McLaren Decl. at ¶7, Exhibit B at 14:11-25.</p> <p>Request for Judicial Notice, Exhibit B to McLaren Decl.</p>	

<p>1 <b>DEFENDANTS'UNDISPUTED</b>                  2 <b>MATERIAL FACTS ("DMF") AND</b>                  3 <b>SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND</b>  <b>SUPPORTING EVIDENCE</b></p>
<p>4 63. Faun O'Neel's attorney, Mr. Stewart                      5 states he has the Safety Plan and that Faun                      6 O'Neel and the grandmother complied with                      7 the provisions of the Safety Plan.                      8 McLaren Decl. at ¶7, Exhibit B at 14:26-                      15:08.                      9 Request for Judicial Notice, Exhibit B to                      10 McLaren Decl.</p>	
<p>11 64. At the detention hearing, Mr. Stewart                      12 argued DCFAS did not provide any services                      13 to Faun O'Neel. He also states it is inaccurate                      14 that services can't be in place or reasonable                      15 efforts have been provided is inaccurate.                      16 McLaren Decl. at ¶7, Exhibit B at 15:09-17.                      17 Request for Judicial Notice, Exhibit B to                      18 McLaren Decl.</p>	
<p>19 65. At the detention hearing, Mr. Stewart                      20 proposed the children be returned to Faun                      21 O'Neel with the paternal grandparents also                      22 residing in the home with the parents. He                      23 further argues Faun O'Neel is willing to do                      24 any services DCFAS would recommend and                      25 that she opposes the recommendation that the                      26 children be detained.                      27 McLaren Decl. at ¶7, Exhibit B at 15:28-                      16:10.                      28 Request for Judicial Notice, Exhibit B to                      McLaren Decl.</p>	
<p>66. A.T.'s attorney, Ms. Stevens asked that                      A.T. be returned to the home and submitted                      on the Department's recommendations.                      McLaren Decl. at ¶7, Exhibit B at 11:22-25.                      Request for Judicial Notice, Exhibit B to                      McLaren Decl.</p>	

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<b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b>	<b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b>
<p>67. Ms. Delucchi, the attorney for A.O. and B.T., asked that they be released to Faun O'Neel. She further argued that the evidence does not support detention of her clients, that services can be put in place to protect the children, and she requested the Court issue an order for no corporal punishment. However, she also stated that B.T. and A.O.'s first choice is for the siblings not to be separated and asked that if any of the children remain out of the mother's care, then they want to stay with that sibling. Ms. Delucchi also stated that her clients wanted the court to know they denied any coaching by any relative.</p> <p>McLaren Decl. at ¶7, Exhibit B at 12:04-13:06. Request for Judicial Notice, Exhibit B to McLaren Decl.</p>	
<p>68. Mr. Perkins, attorney for D.O., agreed with most of what Ms. Delucchi said and also stated that D.O. wanted to return home and that he feels safe at home with his mother. (Exhibit B at 13:13-26). Mr. Perkins also stated that he believed services could be put in place to ensure the safety of his client. He does not mention that his client, D.O., denies his mother choked him.</p> <p>McLaren Decl. at ¶7, Exhibit B at 13:13-14:02. Request for Judicial Notice, Exhibit B to McLaren Decl.</p>	

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<b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b>	<b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b>
<p>69. The Court discussed the allegations in the detention report. The Court stated DCFAS is alleging the family violated the Safety Plan by "talking to the children about the case or something". Counsel for DCFAS then clarified that yes, the family violated the order by coaching the children. The Court asked counsel for DCFAS to clarify whether there were any other allegations about how the family violated the Safety Plan other than coaching, and counsel for DCFAS responded that sounds like the only one, the children appear to have been coached by family members.</p> <p>McLaren Decl. at ¶7, Exhibit B at 2:4-6, 10:23-11:08. Request for Judicial Notice, Exhibit B to McLaren Decl.</p>	



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<b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b>	<b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b>
<p>70. At the detention hearing, Judge Carlton Davis made the following findings and orders:</p> <p>“THE COURT: The Department of Child, Family and Adult Services has made a prima facie showing that the children are described by Section 300. I find that removal of all the children is appropriate, based on allegations of physical abuse. One to [D.O.], but also a report of allegations that there is physical abuse to [A.O.] that occurred prior to this. The allegations seem to suggest this is not an isolated incident that just happened to [D.O.], but this is something that's been ongoing in the family, at least to two children. I find that continuance in the parents' home is contrary to the welfare of the children. There's a substantial danger to the physical health of the children. There's no reasonable means by which the children's physical or emotional health may be protected without removing the children from the parents' physical custody. Reasonable efforts have been made by the Department of Child, Family and Adult Services to prevent or eliminate the need for removal. There are no additional services which could be offered to the children to prevent the need for further detention.”</p> <p>McLaren Decl. at ¶7, Exhibit B at 16:24-17:16. Request for Judicial Notice, Exhibit B to McLaren Decl.</p>	

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<b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b>	<b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b>
<p>71. At the detention hearing, the Court did not make a determination regarding whether the allegations in the petition were true or not true because the veracity of the information in the petitions would be decided at the next hearing.</p> <p>McLaren Decl. at ¶7, Exhibit B at 5:13-24. Request for Judicial Notice, Exhibit B to McLaren Decl.</p>	
<p>72. The juvenile court ordered the detention and removal of the children from their parents' physical custody on January 14, 2021. The juvenile court determined there was a prima facie showing that the children come within the provisions of Welfare and Institutions Code § 300. The parties waived full advisement of rights and a full reading of the petition. The court read and considered the report prepared for the hearing and heard any relevant evidence the parties desired to present. The court set the jurisdiction/disposition hearing for 1/25/21.</p> <p>McLaren Decl. ¶ 7, Exhibit B at 16:24-17:16. Paul Decl. at ¶ 5, 9, Exhibit A: A.T. dependency case file at 217-220. Request for Judicial Notice Exhibits A to Paul Decl., Exhibit B to McLaren Decl.</p>	

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<b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b>	<b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b>
<p>73. The jurisdiction/disposition report that was prepared for the jurisdiction/disposition hearing had a copy of Faun O'Neel's Anger Management Course Certificate of Completion and a copy of an 18-page Folsom Police Report that included the events of December 20, 2020 and supplemental documents that included a narrative by Officer Catanio regarding the SAFE interviews of D.O. and A.O. The report also references that Faun O'Neel spoke with a social worker with her attorney present and invoked the Fifth Amendment.</p> <p>Paul Decl. ¶ 5, 9, Exhibit A: A.T. Dependency Case File at 134-215 (police report at p. 194-212; certificate at p. 213). Request for Judicial Notice Exhibit A to Paul Decl.</p>	
<p>74. The January 8, 2021, petitions as to all four children were sustained by a preponderance of the evidence at the jurisdiction/disposition hearing on February 1, 2021 by Judge Davis. The Court adjudged the children as dependent children of the Court. The Court also ordered the mother and children to reside in the same home as the paternal grandparents until further order of the Court. The Court also ordered no corporal punishment of any child in the home.</p> <p>Paul Decl. at ¶ 5, 9; Exhibit A: A.T. dependency case file at 116-117. Request for Judicial Notice Exhibit A to Paul Decl.</p>	

<p><b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b></p>
<p>75. The dependency status of the children was terminated by the juvenile court on July 22, 2021.</p> <p>Paul Decl. ¶ 5, 9; Exhibit A: A.T. dependency case file at 15-16, 24. Request for Judicial Notice Exhibit A to Paul Decl.</p>	
<p>76. D.O. admits he told his siblings his mom picked him up by his neck. He then states his mother never picked him up by his neck.</p> <p>Paul Decl. ¶ 15; Exhibit I: D.O. Depo. Vol. I at 47:23-48:11.</p>	
<p>77. D.O. confirms he can't recall a time his mother pushed him down the stairs but his told his siblings that she pushed him down the stairs and cracked his head open which was untruthful. He told his siblings this because he was upset with his mom.</p> <p>Paul Decl. ¶ 15; Exhibit I: D.O. Depo. Vol. I at 50:06-21</p>	
<p>78. D.O. states his mom did not push his face into the food but he told his sister B.T. that she pushed his face into the food.</p> <p>Paul Decl. ¶ 15; Exhibit I: D.O. Depo. Vol. I at 77:07-23.</p>	
<p>79. D.O. states he made an audible choking sound when he was walking towards the kitchen. He does not know why he made the choking sound.</p> <p>Paul Decl. ¶ 15; Exhibit I: D.O. Depo. Vol. I at 80:09-18.</p>	

<p><b>DEFENDANTS' UNDISPUTED MATERIAL FACTS ("DMF") AND SUPPORTING EVIDENCE</b></p>	<p><b>PLAINTIFF'S RESPONSE AND SUPPORTING EVIDENCE</b></p>
<p>80. D.O. admits he told the police the same lie that he told B.T., that his mom had picked him up by the neck and carried him to the kitchen. He also told the police his mom had choked him when carrying him to the kitchen. D.O. admits this was not a truthful statement. D.O. told the police officer this because he did not think they were going to get taken out of the house and he was still upset and took his anger out on his mom by telling the police that. He did not want to take responsibility for what he had done.</p> <p>Paul Decl. ¶ 15; Exhibit I: D.O. Depo. Vol. I at 86:20-87:11.</p>	
<p>81. B.T. states that on December 20, 2020, D.O. told her their mom pushed him. She remembers him saying that after they came home and saw cookies all over the floor, their mom had put her hands on his neck and choked him and pushed him.</p> <p>Paul Decl. ¶ 16; Exhibit J: B.T. Depo. at 32:21-33:04.</p>	
<p>82. B.T. states that D.O. told her their mom had pushed him down the stairs before.</p> <p>Paul Decl. ¶ 16; Exhibit J: B.T. Depo. at 33:08-10.</p>	

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DATED: February 13, 2024

Respectfully submitted,  
RIVERA HEWITT PAUL LLP  
*/s/Jonathan B. Paul*

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DATED: February 13, 2024

ANGELO, KILDAY & KILDUFF, LLP  
*/s/ Serena M. Warner*  
*(As authorized on 2/13/24 )*

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