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12 EAST BAY REGIONAL PARK DISTRICT and
13 JONATHAN KNEA

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 DEONTAE CHARLES FAISON BY
17 AND THROUGH HIS GUARDIAN AD
18 LITEM THERESA FLORES;

19 Plaintiff,

20 v.

21 ALAMEDA COUNTY; EAST BAY
22 REGIONAL PARK DISTRICT;
23 JONATHAN KNEA in his individual 1
24 capacity and; DOES 1-40 individually and
25 in official capacities as police officers for
26 the EAST BAY REGIONAL PARKS
27 AND Sheriff Deputies for ALAMEDA
28 COUNTY.

Defendants.

Case No. 3:24-cv-06059-JSC

**DEFENDANTS EAST BAY REGIONAL
PARK DISTRICT'S NOTICE OF MOTION
AND MOTION TO DISMISS *MONELL*
ALLEGATIONS IN THE SECOND
AMENDED COMPLAINT (F.R.C.P. 12(B)(6));
MEMORANDUM OF POINTS AND
AUTHORITIES**

Judge Jacqueline Scott Corley

Date: May 1, 2025

Time: 10:00 a.m.

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on May 1, 2025 at 10:00 a.m., in Courtroom 8 of the
above-entitled Court, located on the 19th Floor, 450 Golden Gate Avenue, San Francisco, CA
94102, Defendants EAST BAY REGIONAL PARK DISTRICT and JONATHAN KNEA will
and hereby moves this Court for an Order dismissing the *Monell*¹ allegations from the Second
Amended Complaint (ECF 44), pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure,

¹ *Monell v. New York Dept. of Social Services*, 436 U.S. 658 (1978).

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1 on the grounds that they fail to state a claim. There are no facts to support liability on these
2 allegations.

3 This Motion is based on this Notice of Motion, the Supporting Memorandum of Points
4 and Authorities, all pleadings and papers on file in this action, and any documents of which the
5 Court may take judicial notice, and upon such further oral or written argument as may be
6 presented at the time of the hearing or otherwise considered by the Court.

7 **MEET AND CONFER**

8 The parties met and conferred but could not resolve the issues discussed in this motion.

9 **STATEMENT OF RELIEF SOUGHT**

10 Defendants seek an order in their favor and against Plaintiff pursuant to Federal Rules of
11 Civil Procedure 12, dismissing portions of Plaintiff’s Second Amended Complaint (ECF 44).

12 **STATEMENT OF ISSUES TO BE DECIDED**

13 The motion presents the following issue:

- 14 1. Whether Plaintiff sufficiently plead a *Monell* claim.

15
16 Respectfully submitted,

17 Dated: March 13, 2025

18 CASTILLO, MORIARTY, ROBINSON, LLP

19 By: /s/ John P. Laughlin
20 PATRICK MORIARTY
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22 JOHN P. LAUGHLIN
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24 EAST BAY REGIONAL PARK DISTRICT
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1 **I. INTRODUCTION**

2 Plaintiff Deonte Faison’s Second Amended Complaint (ECF 44, “SAC”) fails to establish
 3 a viable *Monell*² claim. Despite three opportunities to clarify his allegations, Plaintiff has not
 4 identified a specific unconstitutional policy of the East Bay Regional Parks District (“EBRPD”)
 5 or demonstrated a pattern of similar misconduct by EBRPD officers. Allegations that officers
 6 violated EBRPD policy on the date of the incident are insufficient; *Monell* liability requires
 7 Plaintiff to show that an official policy, custom, or practice was the moving force behind a
 8 constitutional violation. The SAC presents no new facts supporting the existence of an unlawful
 9 practice, custom, or failure to train. Moreover, Plaintiff still fails to allege a ratification theory,
 10 much less identify a final policymaker. Accordingly, Defendants move to dismiss Plaintiff’s
 11 *Monell* allegations with prejudice.³

12 **II. THE COMPLAINT**

13 **A. Incident Related Factual Allegations**

14 Among the few additional allegations in the SAC, Plaintiff cites four EBRPD policies
 15 which were allegedly violated on the date of the incident. Specifically, Plaintiff claims EBRPD
 16 officers violated: (1) the pursuit on foot policy (violated by recklessly chasing Plaintiff); (2) the
 17 conducted energy device policy (using a taser near water); (3) the medical aid policy (failing to
 18 provide aid); and (3) the bias-based policing policy (treating Plaintiff differently than his white
 19 female counterpart). (SAC at p. 10-11, 12, 14, 17).

20 The incident allegations remain unchanged in the SAC: On April 5, 2024, Plaintiff and his
 21 friend parked their car at Martin Luther King Jr. Regional Shoreline Park. (SAC at p. 7). EBRPD
 22 Police Officer Jonathan Knea approached them because the “tags on the vehicle they were next to
 23 were expired.” (SAC at p. 7). Plaintiff provided an “alias” instead of his real name, which Officer
 24 Knea could not verify. (SAC at p. 7-9). Plaintiff “became nervous and upset” and fled toward the
 25 estuary. (SAC at p. 9-10). Officer Knea gave chase and deployed his taser, striking Plaintiff in the
 26

27 ² *Monell v. New York Dept. of Social Services*, 436 U.S. 658 (1978).

28 ³ If the Court is persuaded to allow a *Monell* claim, Defendants will argue that the claim should be bifurcated for discovery and trial. (See ECF 27 at p. 7).

1 back as he neared the water. (SAC at p. 10). Plaintiff fell down, got back up, and walked away
 2 into the estuary water. (SAC at p. 11). While in the estuary, Officer Knea allegedly “reapplied
 3 electric force through the taser.” (SAC at p. 11). Plaintiff fell into the estuary where he struggled
 4 in the water for approximately 40 minutes before he “drowned, went under the water, and floated
 5 10 to 15 feet from the opposite shoreline of the estuary” where EBRPD and Alameda County
 6 Officers pulled him out of the water. (SAC at p. 12-13). Plaintiff “has been in a coma and on life
 7 support ever since.” (SAC at p. 14).

8 **B. Monell Allegations**

9 The allegations in support of the *Monell* claim are entirely based on legal conclusions.
 10 Plaintiff broadly contends, without factual support, that (1) Officer Knea “acted pursuant to a
 11 widespread or longstanding practice or custom of [EBRPD]...” (2) was “deliberately indifferent
 12 to the official policy and adopted a custom and practice of policing black individuals differently,”
 13 (3) EBRPD officers had “a history of aggressively pursuing Black males for minor offenses,” (4)
 14 “[EBRPD] had a duty to adequately train, supervise and discipline their deputy officers...” and
 15 was “deliberately indifferent to such duties...,” and (5) “failed to discipline any of the officers
 16 involved.” (SAC at p. 10, 17, and 19-20).

17 As argued below, the new allegations in the SAC—that officers violated EBRPD
 18 policies—are legally insufficient to establish a *Monell* claim.

19 **III. ARGUMENT**

20 **A. Legal Standard**

21 A district court should grant a motion to dismiss if a plaintiff has not pled “enough facts to
 22 state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544,
 23 570 (2007). The complaint must possess more than “a formulaic recitation of the elements of a
 24 cause of action”; it must contain factual allegations sufficient “to raise a right to relief above the
 25 speculative level.” *Id.* at 554. “[O]nly a complaint that states a plausible claim for relief survives
 26 a motion to dismiss.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). Thus, if a complaint only
 27 contains “threadbare recitals of a cause of action’s elements, supported by mere conclusory
 28 statements,” the reviewing court may “draw on its experience and common sense” and dismiss

1 the complaint because it does not “plausibly give rise to an entitlement to relief.” *Id.*, at 664.

2 A court has discretion to deny leave to amend due to “undue delay, bad faith or dilatory
3 motive on the part of the movant, repeated failure to cure deficiencies by amendment previously
4 allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [and]
5 futility of amendment.” *Leadsinger, Inc. v. BMG Music Pub.*, 512 F.3d 522, 532 (9th Cir. 2008).

6 **B. The SAC Fails to State a Viable *Monell* Claim**

7 “[M]unicipalities may be liable under § 1983 for constitutional injuries pursuant to (1) an
8 official policy; (2) a pervasive practice or custom; (3) a failure to train, supervise, or discipline; or
9 (4) a decision or act by a final policymaker.” *Horton v. City of Santa Maria*, 915 F.3d 592, 602-
10 603 (9th Cir. 2019). The SAC fails to adequately state a claim under *Monell* for the following
11 reasons:

12 1. No Unconstitutional Written Policy

13 Plaintiff’s *Monell* claim fails because he has not identified a specific EBRPD written
14 policy that is unconstitutional or led to unconstitutional conduct. Instead, he alleges that officers
15 failed to follow existing policies on foot pursuits, Taser use, medical aid, and bias-based
16 policing—not that these policies themselves are unconstitutional. (See SAC at p. 10-11, 12, 14,
17 17). This is fatal to his *Monell* claim. *Mateos-Sandoval v. Cnty. of Sonoma*, 942 F. Supp. 2d 890,
18 899 (N.D. Cal. 2013) (requiring a *Monell* claim to “specify the content of the policies, customs, or
19 practices the execution of which gave rise to Plaintiffs’ constitutional injuries.”).

20 A municipality is liable under *Monell* only when an official policy causes a constitutional
21 violation—not when officers allegedly violate department policy. A municipality is liable for an
22 injury caused by its employees only if *enforcement* of a policy inflicts the injury. *Long v. Cnty. of*
23 *Los Angeles*, 442 F.3d 1178, 1185 (9th Cir. 2006). Because Plaintiff claims the officers failed to
24 follow EBRPD policy, rather than enforcing an unconstitutional policy, he cannot establish
25 *Monell* liability.

26 Therefore, the SAC lacks sufficient facts to support a *Monell* claim based on an
27 unconstitutional written policy.

28 ///

1 establish a “widespread practice” under *Monell*).

2 Plaintiff does not allege any prior similar constitutional violations that could support a
3 claim that EBRPD’s training was deficient. *See Williams v. Cnty of Alameda*, 26 F. Supp. 3d 925,
4 946 (N.D. Cal. 2014). Nor does he show that this case falls within the “narrow range” of
5 circumstances where a failure to train is “patently obvious.” *Connick v. Thompson*, 563 U.S. 51,
6 63-64 (2011).

7 Finally, Plaintiff fails to allege facts showing that EBRPD’s training practices amount to
8 “deliberate indifference,” as required for *Monell* liability. *City of Canton v. Harris*, 489 U.S. 378,
9 388. Without evidence of a pattern of violations or obvious training deficiencies, the SAC does
10 not support a failure-to-train under *Monell*.

11 4. No Failure to Investigate or Discipline

12 The SAC fails to state a viable *Monell* claim based on EBRPD’s alleged failure to
13 investigate or discipline the officers involved in this incident. As in prior complaints, Plaintiff’s
14 allegations are conclusory and merely restate the elements of the claim without providing
15 supporting facts. (See SAC at p. 15-16, 17, 19-20).

16 Plaintiff does not allege any facts that EBRPD failed to properly investigate this incident
17 or that it had a broader policy or practice of condoning misconduct. A single incident is
18 insufficient to establish *Monell* liability for a failure to investigate. *Hunter v. Cnty. of*
19 *Sacramento*, 652 F.3d 1225, 1234-35 (9th Cir. 2011).

20 Without specific facts showing a pattern of inadequate investigations or a deliberate
21 policy of ignoring misconduct, Plaintiff’s *Monell* claim fails.

22 **IV. CONCLUSION**

23 For these reasons, Defendants request that the Court dismiss Plaintiff’s *Monell* claim **with**
24 **prejudice**. Plaintiff has repeatedly failed to cure deficiencies by previous amendments, indicating
25 that further amendment would be futile.

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Respectfully submitted,

Dated: March 19, 2025

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