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**United States District Court
Central District of California**

CHRISTIAN ALCALA,
Plaintiff,
v.
CITY OF GARDEN GROVE et al.,
Defendants.

Case No 8:25-cv-00078-ODW (DFMx)

**ORDER GRANTING THE CITY’S
MOTION [46] AND GRANTING IN
PART AND DENYING IN PART
THE OFFICERS’ MOTION [47]**

I. INTRODUCTION

Plaintiff Christian Alcala brings this civil rights action against Defendants, the City of Garden Grove (“City”) and Garden Grove Police Department Officers Andrew Archuleta, Jose Amaya, Cody Britton, Joey Garcia, and Michael Kovacs (collectively, “Officers”), alleging violations of Alcala’s rights under the United States Constitution and California law. (First Am. Compl. (“FAC”), Dkt. No. 28.) The City and the Officers respectively move to dismiss Alcala’s First Amended Complaint (“Motions”). (City Mot. Dismiss (“City Mot.”), Dkt. No. 46; Ofcr. Mot. Dismiss (“Ofcr. Mot.”), Dkt. No. 47.) For the reasons below, the Court **GRANTS** the City’s Motion and **GRANTS IN PART** and **DENIES IN PART** the Officers’ Motion.¹

¹ Having carefully considered the papers filed in connection with the Motions, the Court deemed the matters appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.D. Cal. L.R. 7-15.

1 **II. BACKGROUND²**

2 Alcalá is a man of Hispanic heritage who worked during the day and cared for
3 his minor children in the evenings while his wife worked night shifts. (FAC ¶¶ 3, 18.)
4 On the evening of March 8, 2024, Alcalá was home with his children when his daughter
5 observed him “making strange noises in his sleep” and looking “unusual.” (*Id.* ¶ 19.)
6 Concerned for his health, Alcalá’s daughter called 911 and asked the operator to send
7 emergency medical assistance for her father. (*Id.* ¶¶ 19–20.)

8 When the Officers arrived at Alcalá’s home, his daughter “reiterated her concern
9 that her father was experiencing a medical emergency” and told the Officers that she
10 and Alcalá’s other children were unharmed. (*Id.* ¶¶ 21, 23.) The Officers then entered
11 Alcalá’s bedroom and found him lying in bed face-up and motionless. (*Id.* ¶ 24.)

12 Seeing Alcalá like this, the Officers erroneously determined that he was under
13 the influence of drugs. (*Id.* ¶¶ 25–26.) Accordingly, they turned Alcalá onto his
14 stomach, climbed onto his back, and used “violent control holds” to restrain him. (*Id.*
15 ¶ 28.) Specifically, Officer Amaya handcuffed and arrested Alcalá. (*Id.* ¶ 30.)
16 Officer Archuleta used a “forced control hold” to restrain Alcalá, causing Alcalá to cry
17 out in pain. (*Id.* ¶ 29.) Meanwhile, Officer Britton held down Alcalá’s head and
18 shoulders, Officer Garcia “applied his bodyweight to [Alcalá’s] upper back and
19 shoulders,” and Officer Kovacs restrained Alcalá’s feet and ankles. (*Id.* ¶¶ 31–33.) At
20 no point during this interaction did the Officers offer Alcalá medical assistance. (*Id.*
21 ¶ 34.)

22 Following his arrest, Alcalá was charged with being under the influence of a
23 controlled substance and child endangerment. (*Id.* ¶¶ 25, 155.) During the pendency
24 of those charges, Alcalá was temporarily incarcerated and lost his job. (*Id.* ¶¶ 36, 40.)
25 Additionally, Child Protective Services (“CPS”) intervened, launching an independent
26

27 _____
28 ² All factual references derive from Alcalá’s First Amended Complaint unless otherwise noted.
Alcalá’s well-pleaded factual allegations are accepted as true for purposes of resolving the Motions.
See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

1 investigation into and levying dependency charges against Alcalá. (*Id.* ¶¶ 37, 39.) CPS
2 temporarily removed Alcalá’s children from his custody. (*Id.* ¶ 37.)

3 Based on these allegations, Alcalá advances thirteen causes of action against the
4 City and the Officers. Alcalá asserts the following seven causes of action under
5 42 U.S.C. § 1983: (1) unlawful arrest against the Officers (Count 1); (2) excessive force
6 against Officers Archuleta and Amaya (Count 2); (3) denial of medical care against the
7 Officers (Count 3); (4) unlawful interference with familial relations against the Officers
8 (Count 4); (5) unconstitutional custom, practice, or policy under *Monell v. New York*
9 *Department of Social Services*, 436 U.S. 658 (1978), against the City (Count 5);
10 (6) failure to train under *Monell* against the City (Count 6); and (7) ratification under
11 *Monell* against the City (Count 7). (*Id.* ¶¶ 42–151.) Alcalá also asserts the following
12 six state law causes of action against both the City and the Officers: (1) violation of the
13 Ralph Civil Rights Act (“Ralph Act”), Cal. Civ. Code § 51.7 (Count 8); (2) violation of
14 the Tom Bane Civil Rights Act (“Bane Act”), Cal. Civ. Code § 52.1 (Count 9);
15 (3) assault (Count 10); (4) battery by a peace officer (Count 11); (5) intentional
16 infliction of emotional distress (“IIED”) (Count 12); and (6) negligence (Count 13).
17 (*Id.* ¶¶ 152–224.)

18 The City and the Officers respectively move to dismiss Alcalá’s First Amended
19 Complaint under Federal Rule of Civil Procedure (“Rule”) 12(b)(6). (City Mot.; Ofcr.
20 Mot.) The Motions are fully briefed. (Opp’n City Mot., Dkt. No. 48; City Reply, Dkt.
21 No. 49; Opp’n Ofcr. Mot., Dkt. No. 50; Ofcr. Reply, Dkt. No. 51.)

22 III. LEGAL STANDARD

23 A court may dismiss a complaint under Rule 12(b)(6) for lack of a cognizable
24 theory or insufficient facts pleaded to support an otherwise cognizable theory.
25 *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988). To survive a
26 motion to dismiss, a complaint need only satisfy the minimal notice pleading
27 requirements of Rule 8(a)(2)—a short and plain statement of the claim. *Porter v. Jones*,
28 319 F.3d 482, 494 (9th Cir. 2003). The factual allegations in the complaint “must be

1 enough to raise a right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*,
2 550 U.S. 544, 555 (2007). Stated differently, the complaint must “contain sufficient
3 factual matter, accepted as true, to state a claim for relief that is plausible on its face.”
4 *Iqbal*, 556 U.S. at 678 (internal quotation marks omitted).

5 Determining whether a complaint states a claim for relief is a “context-specific
6 task that requires the reviewing court to draw on its judicial experience and common
7 sense.” *Iqbal*, 556 U.S. at 679. Generally, a court limits its review to the pleadings and
8 must construe all factual allegations in the complaint “as true and . . . in the light most
9 favorable” to the plaintiff. *Lee v. City of Los Angeles*, 250 F.3d 668, 679 (9th Cir.
10 2001). However, a court need not blindly accept conclusory allegations, unwarranted
11 deductions of fact, or unreasonable inferences. *Sprewell v. Golden State Warriors*,
12 266 F.3d 979, 988 (9th Cir. 2001).

13 IV. DISCUSSION

14 The Officers and the City each move to dismiss Alcalá’s First Amended
15 Complaint.

16 A. The Officers’ Motion

17 The Officers argue the Court should dismiss the First Amended Complaint as an
18 impermissible “shotgun pleading” or, alternatively, because Alcalá’s allegations are
19 legally insufficient to plausibly state a claim for relief under any of the ten causes of
20 action that Alcalá asserts against them. (*See* Ofcr. Mot. 10–27; *see* FAC ¶¶ 42–94
21 (Counts 1 through 4), 152–224 (Counts 8 through 13).)

22 1. Shotgun Pleading

23 A “shotgun pleading” can take several forms, including a complaint that asserts
24 “multiple claims against multiple defendants without specifying which of the
25 defendants are responsible for which acts or omissions, or which of the defendants the
26 claim is brought against.” *Weiland v. Palm Beach Cnty. Sheriff’s Off.*, 792 F.3d 1313,
27 1320, 1323 (11th Cir. 2015); *Destfino v. Reiswig*, 630 F.3d 952, 958 (9th Cir. 2011)
28 (affirming dismissal of complaint alleging that “everyone did everything”). Such a

1 pleading thus runs afoul of Rule 8(a)(2)'s and Rule 10(b)'s mandates directing pleaders
2 to clearly, discretely, and succinctly present their claims or defenses. *See Weiland*,
3 792 F.3d at 1320, 1323. It also fails to give defending parties adequate notice of the
4 claims against them and the grounds for each claim. *See id.*

5 The Officers assert that Alcalá's First Amended Complaint is a "shotgun
6 pleading" because it frequently groups multiple officers together under the umbrella
7 term "Officer Defendants" without differentiating between each officer's individual
8 conduct or involvement. (Ofcr. Mot. 10, 12–13.) Alcalá counters by listing
9 twenty-eight paragraphs that he asserts "allege[] facts specifying the wrongdoing of
10 each officer, and the legal basis for them." (Opp'n Ofcr. Mot. 4–5.)

11 The Officers' argument is not without merit. Certain of Alcalá's claims assert
12 collective references that do not specify which officer is responsible for which
13 misconduct. (*See generally* FAC ¶¶ 86–94 (alleging the "Officer Defendants and
14 Does 6–8[], inclusive," acted with "deliberate indifference" when they "intentional[ly]
15 violat[ed] . . . [Alcalá's] civil rights, resulting in the unlawful removal of [Alcalá's]
16 children" (emphasis omitted)), 152–223 (alleging that "the Officer Defendants and
17 Does 6–8" engaged in discriminatory, coercive, outrageous, and negligent conduct
18 (emphasis omitted).) Grouping the Officers together in this manner can make the task
19 of discerning the precise factual basis for each claim against each individual officer
20 challenging. *See Starr v. Baca*, 652 F.3d 1202, 1216 (9th Cir. 2011) (explaining that
21 allegations must be sufficient "to give fair notice and to enable the opposing party to
22 defend itself effectively"); *see also Destfino*, 630 F.3d at 958 (affirming dismissal of
23 "shotgun pleading" that grouped multiple defendants together and failed to specify
24 which defendants engaged in which conduct).

25 As challenging as this task might be, however, the Court is disinclined to dismiss
26 Alcalá's pleading on this ground. Alcalá does allege certain specific involvement and
27 actions by each named officer during his arrest. (*See, e.g.*, FAC ¶¶ 26, 29–33, 45–49,
28 78–83.) Given the content of those factual allegations, dismissing the First Amended

1 Complaint solely on shotgun grounds would be disproportionate. Accordingly, the
2 Court **DENIES** the Officers’ Motion to Dismiss the First Amended Complaint as a
3 shotgun pleading.

4 2. *Federal Causes of Action: § 1983*

5 The Officers move to dismiss each of Alcalá’s § 1983 claims as insufficiently
6 pleaded. (Ofcr. Mot. 14–22.) Alcalá largely resists the Officers’ Motion by referring
7 the Court to certain paragraphs in his pleading and conclusively asserting that his claims
8 are sufficiently alleged. (Opp’n Ofcr. Mot. 5–13.)

9 To state a claim under § 1983, a plaintiff must prove that (1) they were “deprived
10 of a right secured by the Constitution or laws of the United States,” and (2) “the alleged
11 deprivation was committed under color of state law.” *March v. County of San Diego*,
12 680 F.3d 1148, 1152 (9th Cir. 2012) (citing *Am. Mfrs. Mut. Ins. Co. v. Sullivan*,
13 526 U.S. 40, 49–50 (1999)). Here, it is undisputed that the Officers acted under color
14 of state law. (See FAC ¶¶ 43, 55; see generally Ofcr. Mot.) Therefore, the Court
15 focuses its analysis on whether Alcalá plausibly alleges that the Officers deprived him
16 of any particular constitutional guaranty.

17 (i) Unlawful arrest (Count 1)

18 Alcalá first claims the Officers violated the Fourth Amendment by unlawfully
19 arresting him without a warrant or probable cause. (FAC ¶¶ 42–53.)

20 The Fourth Amendment guarantees the right of citizens to be “secure in their
21 persons[] [and] houses . . . against unreasonable . . . seizures.” U.S. Const. amend. IV.
22 Critically, the Fourth Amendment “does not proscribe all state-initiated . . . seizures; it
23 merely proscribes those which are unreasonable.” *Florida v. Jimeno*, 500 U.S. 248, 250
24 (1991). Reasonableness is thus the touchstone of any Fourth Amendment inquiry. *Id.*

25 The arrest of a person by physical force with lawful authority is a quintessential
26 seizure under the Fourth Amendment. *Torres v. Madrid*, 592 U.S. 306, 311 (2021).
27 Where police officers effect a warrantless arrest in the home, that arrest is
28 “presumptively unreasonable.” *United States v. Alvarez*, 810 F.2d 879, 881 (9th Cir.

1 1987) (citing *Payton v. New York*, 445 U.S. 573, 586–89 (1980)). A warrantless arrest
2 in the home may be reasonable for Fourth Amendment purposes, however, if “both
3 probable cause and exigent circumstances” exist. *Hopkins v. Bonvicino*, 573 F.3d 752,
4 773 (9th Cir. 2009); *Welsh v. Wisconsin*, 466 U.S. 740, 741 (1984) (“[A]bsent probable
5 cause and exigent circumstances, warrantless arrests in the home are prohibited by the
6 Fourth Amendment.”) An officer has probable cause to make an arrest when the facts
7 and circumstances known to them at the time of the arrest would cause “a reasonably
8 prudent person to believe that the suspect ha[d] committed a crime.” *Rosenbaum v.*
9 *Washoe County*, 663 F.3d 1071, 1076 (9th Cir. 2011). “Mere suspicion, common
10 rumor, or even strong reason to suspect are not enough” to establish probable cause.
11 *McKenzie v. Lamb*, 738 F.2d 1005, 1008 (9th Cir. 1984) (citing *Henry v. United States*,
12 361 U.S. 98, 101 (1959)). “Probable cause is [also] lacking if the circumstances relied
13 on are susceptible to a variety of credible interpretations not necessarily compatible
14 with nefarious activities.” *Gasho v. United States*, 39 F.3d 1420, 1432 (9th Cir. 1994)
15 (citation modified).

16 The Court’s starting point here is uncontroversial: the Officers’ warrantless arrest
17 of Alcalá in his home is presumptively unreasonable under the Fourth Amendment
18 absent both exigent circumstances and probable cause. *Alvarez*, 810 F.2d at 881;
19 *Hopkins*, 573 F.3d at 773. As neither party disputes that the Officers were permitted to
20 enter Alcalá’s home to investigate the emergency to which they were originally
21 dispatched,³ the only remaining issue is whether Alcalá plausibly alleges the Officers
22 lacked probable cause to arrest him. *See Yousefian*, 779 F.3d at 1014 (“The absence of
23 probable cause is a necessary element of § 1983 false arrest . . . claims.”). The Court
24 finds that he does.

25
26 ³ Courts in this circuit have recognized that law enforcement’s community caretaking function under
27 the emergency exception to the Fourth Amendment’s warrant requirement may permit police officers
28 to enter a home without a warrant to investigate an emergency. *See Hopkins*, 573 F.3d at 763;
Yousefian v. City of Glendale, No. 2:11-cv-03579-DMG (MANx), 2012 WL 12849427, at *9 n.6
(C.D. Cal. Nov. 19, 2012), *aff’d*, 779 F.3d 1010 (9th Cir. 2015).

1 Alcala alleges that his daughter contacted 911 seeking emergency “medical
2 assistance” for Alcala. (FAC ¶¶ 19–20.) The Officers were dispatched to Alcala’s
3 home, where his daughter reiterated her concern that he was experiencing a medical
4 emergency and confirmed that his children were unharmed. (*Id.* ¶¶ 21, 23.) The
5 Officers then entered Alcala’s bedroom, where they observed Alcala motionless in his
6 bed. (*Id.* ¶ 24.) Alcala was unarmed and, in his condition, unable to harm anyone. (*Id.*
7 ¶¶ 21, 24.) Based on these facts, the Officers “formed the belief that [Alcala] was under
8 the influence of drugs” and arrested him. (Ofcr. Mot. 15; FAC ¶ 25.)

9 These facts, taken together as true, plausibly establish that the Officers lacked
10 probable cause to arrest Alcala. The Officers inferred drug use based solely from
11 ambiguous physical symptoms that are at least equally consistent with symptoms
12 denoting a legitimate medical concern. These symptoms are “susceptible to a variety
13 of credible interpretations not necessarily compatible with nefarious activities,” *Gasho*,
14 39 F.3d at 1432, and thus fall short of satisfying the Fourth Amendment’s objective
15 probable cause standard, *see McKenzie*, 738 F.2d at 1008. The Officers’ factually
16 unadorned argument that “there was reasonable suspicion or probable cause” to support
17 their belief is conclusory and only underscores the deficiency of their assessment.
18 (Ofcr. Mot. 15.)

19 The Court therefore finds that Alcala plausibly alleges an unlawful arrest claim
20 under § 1983. As Alcala’s allegations implicate all of the named Officers in the arrest,
21 (*see* FAC ¶¶ 29–33), the Court **DENIES** the Officers’ Motion as to Alcala’s first cause
22 of action.

23 (ii) Excessive force (Count 2)

24 Alcala next claims Officers Archuleta and Amaya violated the
25 Fourth Amendment by using “excessive and unreasonable force” to restrain, handcuff,
26 and arrest Alcala. (FAC ¶¶ 54–73.) The Officers acknowledge that “some force was
27 used” but argue that Alcala’s allegations are insufficient to establish that such force was
28 excessive. (Ofcr. Mot. 16–17 (emphasis omitted).)

1 Excessive force claims are analyzed under the Fourth Amendment’s
2 reasonableness standard, which requires courts to balance the extent of the challenged
3 intrusion against law enforcement’s legitimate interests under the circumstances.
4 *Graham v. Connor*, 490 U.S. 386, 395–97 (1986). In balancing these competing
5 privacy and law enforcement interests, courts consider (1) the severity of the crime at
6 issue, (2) whether the suspect posed an immediate threat, and (3) whether the suspect
7 actively resisted arrest or attempted to evade arrest by flight. *Id.* at 396. In so doing,
8 however, courts must be mindful of “the perspective of a reasonable officer on the
9 scene, rather than with the 20/20 vision of hindsight.” *Id.*

10 Alcala plausibly states a claim for excessive force against Officers Archuleta and
11 Amaya. First, the severity of Alcala’s perceived crime was minimal. The alleged basis
12 for Alcala’s arrest was the relatively minor misdemeanor offense of being under the
13 influence of a controlled substance. *See* Cal. Health & Safety Code § 11550; (FAC
14 ¶ 155). Second, Alcala posed no threat to the Officers. As alleged, Alcala was
15 motionless, bedridden, unarmed, and unable to harm anyone. (FAC ¶¶ 21, 24.) Third,
16 Alcala did not resist or attempt to evade arrest. His only action was to cry out in pain
17 when Officer Archuleta used a forced control hold on him. (FAC ¶¶ 24, 29.)

18 On balance, these factors suggest that Officers Archuleta and Amaya’s interest
19 in using force against Alcala was minimal. *See Liston v. County of Riverside*, 120 F.3d
20 965, 976 (9th Cir. 1997) (explaining that the force used in an arrest “must be balanced
21 against the *need* for th[e] force[,] . . . which is at the heart of the *Graham* factors”). Yet,
22 despite the absence of aggravating circumstances, Officer Archuleta used a “forced
23 control hold” on Alcala while Officer Amaya “forcibly restrained . . . and handcuffed”
24 Alcala. (FAC ¶¶ 29–30.) Their use of painful force on a non-resisting, non-threatening,
25 and motionless individual like Alcala plausibly constitutes excessive force. *See, e.g.,*
26 *Tuuamalemalu v. Greene*, 946 F.3d 471, 477 (9th Cir. 2019) (finding use of chokehold
27 on non-resisting, restrained person violated the Fourth Amendment’s prohibition on the
28

1 use of excessive force). Accordingly, the Court **DENIES** the Officers’ Motion as to
2 Alcalá’s second cause of action.

3 (iii) Denial of medical care (Count 3)

4 Alcalá next claims the Officers collectively and with deliberate indifference
5 denied him necessary medical care in violation of the Fourteenth Amendment. (FAC
6 ¶¶ 74–85.) The Officers move to dismiss, arguing that no objectively serious medical
7 need was apparent, and their response was reasonable under the circumstances. (Ofcr.
8 Mot. 17–20.)

9 Claims for the denial or deficient provision of medical care during or immediately
10 following an arrest are analyzed under the Fourth Amendment. *Mejia v. City of San*
11 *Bernardino*, No. 5:11-cv-00452-VAP (DTBx), 2012 WL 1079341, at *5 n.12
12 (C.D. Cal. Mar. 30, 2012) (citing *Tatum v. City & County of San Francisco*, 441 F.3d
13 1090, 1098–99 (9th Cir. 2006)); (see also Opp’n Ofcr. Mot. 8–9 (clarifying that
14 Alcalá’s denial-of-medical-care claim arises under the Fourth Amendment, not the
15 Fourteenth Amendment). The Fourth Amendment requires law enforcement officers to
16 provide objectively reasonable post-arrest care to an apprehended suspect. *Tatum*,
17 441 F.3d at 1099. Although the Ninth Circuit has not defined the contours of
18 “objectively reasonable post-arrest care,” district courts have examined such factors as
19 the promptness of the care, the seriousness of the medical need, and whether law
20 enforcement officers had knowledge or notice of the medical need. *Purnell v. City of*
21 *Sunnyvale Police Dep’t*, No. 5:18-cv-02113-EJD, 2019 WL 587287, at *2 (N.D. Cal.
22 Feb. 13, 2019); *Espinoza v. Cal. Highway Patrol*, No. 1:16-cv-00193-DAD-JLT,
23 2016 WL 4943960, at *3 (E.D. Cal. Sept. 16, 2016).

24 Alcalá fails to plausibly state a denial-of-medical-care claim. First, Alcalá does
25 not adequately allege facts supporting the inference that, at the time of his arrest, he was
26 experiencing a serious injury that required prompt medical treatment. He alleges that
27 he experienced “a medical emergency” and “extreme mental and physical pain and
28 suffering, and great bodily harm,” that he later attributes to diverticulosis. (FAC ¶¶ 24,

1 76, 83.) But these allegations are conclusory and devoid of any supportive detail
2 describing the nature, extent, and severity of his alleged injury. *See Purnell*, 2019 WL
3 587287, at *3 (dismissing denial-of-medical-care claim where plaintiff failed to
4 describe “the nature, extent[,] and severity” of injuries or allege that a reasonable officer
5 would have known they “posed a serious risk” and required immediate care).

6 Second, Alcalá does not plead sufficient facts to permit the Court to infer that the
7 Officers knew at the time of arrest that Alcalá was in the throes of a medical emergency
8 posing a serious risk to his health or requiring immediate medical attention. Alcalá
9 alleges he was motionless and in bed when the Officers found him. (FAC ¶ 24.) His
10 only explicit outward reaction was a cry of pain when Officer Archuleta restrained him.
11 (*Id.* ¶ 29.) As Alcalá alleges, not even he knew what ailed him, much less whether that
12 ailment posed a serious risk to his health. (*Id.* ¶ 20.) The First Amended Complaint
13 contains no allegations that Alcalá or his daughter told the Officers he required
14 emergency medical treatment. It also does not contain any allegation that Alcalá
15 suffered any visible symptom—such as bleeding, vomiting, convulsions, impaired
16 breathing, or altered consciousness—that would have put a reasonable police officer on
17 alert that Alcalá was experiencing a true medical emergency. Without such allegations,
18 the Court cannot infer the Officers knew that Alcalá required immediate medical
19 assistance.

20 For the reasons discussed above, Alcalá ultimately fails to state a cognizable
21 denial-of-medical-care claim. The deficiencies above, though potentially curable
22 through amendment, prevent the Court from finding that Alcalá has stated a cognizable
23 claim at this stage. Accordingly, the Court **GRANTS** the Officers’ Motion and
24 **DISMISSES** Alcalá’s third cause of action **WITH LEAVE TO AMEND**.

25 (iv) Interference with familial relations (Count 4)

26 Alcalá next claims the Officers unlawfully interfered with his
27 Fourteenth Amendment right to maintain a familial relationship with his children by
28

1 directly and proximately causing CPS to remove Alcala’s children from his custody.
2 (FAC ¶¶ 86–94.)

3 The Fourteenth Amendment confers on parents a “substantive due process right
4 to family integrity or to familial association.” *Rosenbaum*, 663 F.3d at 1079. To state
5 a claim for interference with familial relations, a plaintiff must allege that state actors
6 engaged in conduct that “shocks the conscience.” *Porter v. Osborn*, 546 F.3d 1131,
7 1137 (9th Cir. 2008). Where it is practical for the state actor to “actual[ly] deliberate,”
8 their conduct is conscience-shocking when they act with deliberate indifference.
9 *Wilkinson v. Torres*, 610 F.3d 546, 554 (9th Cir. 2010). A state actor acts with
10 deliberate indifference when they “recognize[] the unreasonable risk and actually
11 intend[] to expose the plaintiff to such risks without regard to the consequences to the
12 plaintiff.” *Herrera v. L.A. Unified Sch. Dist.*, 18 F.4th 1156, 1158 (9th Cir. 2021)
13 (alterations in original).

14 A plaintiff must also plausibly establish that the state actor actually and
15 proximately caused their constitutional injury. *See Chaudhry v. Aragón*, 68 F.4th 1161,
16 1169–70 (9th Cir. 2023). Proximate cause demands a “sufficient connection to the
17 result” that is not “so attenuated that the consequence is more aptly described as mere
18 fortuity.” *Id.* at 1169 n.12. A plaintiff may establish proximate cause by showing the
19 state actor “set[] in motion a series of acts by others which the actor knows or reasonably
20 should know would cause others to inflict the constitutional injury.” *Id.* at 1169.
21 Intervening acts, however, may sever the causal chain and thus vitiate proximate cause.
22 *Caldwell v. City & County of San Francisco*, 889 F.3d 1105, 1115 (9th Cir. 2018). In
23 cases involving prosecutorial discretion, for example, courts presume the prosecutor
24 who files charges “exercise[s] independent judgment,” thereby immunizing the
25 investigating officers from liability. *Id.* This presumption can be overcome only if a
26 plaintiff shows the “officers either presented false evidence to or withheld crucial
27 information from the prosecutor.” *Id.* at 1116.

28

1 Alcala fails to state a claim for unlawful interference with familial relations for
2 two independent reasons. First, Alcala does not adequately allege the Officers
3 proximately caused CPS to remove Alcala’s children from his custody. California law
4 requires child welfare agencies like CPS to exercise independent, professional judgment
5 and apply carefully delineated child welfare criteria to custody and removal
6 determinations. *See, e.g.*, Cal. Welf. & Inst. Code §§ 300, 306(a), 16501(f), 16501.1;
7 Cal. Dep’t of Soc. Servs., Manual of Policies and Procedures: Social Service Standards,
8 div. 31-125 (2023). The Ninth Circuit and district courts likewise recognize that child
9 services workers exercise independent judgment in determining whether and when to
10 bring and pursue custody or dependency proceedings and that such judgment is
11 analogous to the function of a criminal prosecutor. *See, e.g., Meyers v. Contra Costa*
12 *Cnty. Dep’t of Soc. Servs.*, 812 F.2d 1154, 1157 (9th Cir. 1987) (“[S]ocial workers are
13 entitled to absolute immunity in performing quasi-prosecutorial functions connected
14 with the initiation and pursuit of child dependency proceedings.”); *Alberici v. County*
15 *of Los Angeles*, No. 2:12-cv-10511-JFW (VBKx), 2013 WL 5573045, at *13 (C.D. Cal.
16 Oct. 9, 2013) (“[A]ctions by a child services worker in exercising independent judgment
17 in determining when to bring custody or dependency proceedings is analogous to the
18 function of a criminal prosecutor.”). Here, Alcala’s well-pleaded allegations
19 demonstrate that CPS exercised its independent and professional judgment in deciding
20 to investigate Alcala, levy dependency charges against him, and temporarily remove his
21 children from his custody. (FAC ¶¶ 37–39.) CPS’s independent decision-making thus
22 presumptively severed the causal chain connecting the Officers’ arrest of Alcala to
23 CPS’s custody removal determination. *See Caldwell*, 889 F.3d at 1115–16.

24 To the extent Alcala alleges that CPS’s removal decision was a “foreseeable
25 outcome” and that the Officers “knew or should have known” their actions would
26 trigger CPS involvement, (*see* FAC ¶ 36), those allegations are inadequate to overcome
27 the presumption of independent judgment and bridge the causation gap, *see Caldwell*,
28 889 F.3d at 1116. In sum, Alcala fails to explain how CPS’s custody removal decision

1 was a foreseeable consequence of his arrest rather than a contingent outcome dependent
2 on CPS’s exercise of its independent, professional judgment. Thus, Alcalá fails to show
3 that the Officers’ alleged constitutional violation proximately caused CPS to remove
4 Alcalá’s children from his custody.

5 Second, Alcalá does not adequately allege conscience-shocking conduct. Alcalá
6 asserts that the Officers’ actions “were [not] in furtherance [of] or related to any
7 legitimate penal or law enforcement interest and are therefore consciously shocking
8 [sic] as they exhibit a deliberate and intentional indifference to [Alcalá’s] rights.” (FAC
9 ¶ 88.) But such factually unenhanced and conclusory statements are insufficient to state
10 a claim under § 1983. *Jones v. Cmty. Redevelopment Agency*, 733 F.2d 646, 649
11 (9th Cir. 1984) (holding that conclusory allegations are insufficient to state a § 1983
12 claim). None of Alcalá’s allegations support the inference that the Officers actually
13 knew of and consciously disregarded the risk to Alcalá’s familial rights. *See Herrera*,
14 18 F.4th at 1158–59 (“[A] state actor needs to know that something is going to happen
15 but ignore the risk and expose the plaintiff to it.” (citation modified)). Even accepting
16 Alcalá’s allegations that the Officers’ actions were mistaken or wrongful, “negligently
17 inflicted harm is categorically beneath the threshold of constitutional due process.”
18 *County of Sacramento v. Lewis*, 523 U.S. 833, 849 (1998).

19 Accordingly, the Court **GRANTS** the Officers’ Motion and **DISMISSES**
20 Alcalá’s fourth cause of action **WITH LEAVE TO AMEND**.

21 3. *State Law Causes of Action*

22 The Officers move to dismiss Alcalá’s state law claims for violation of the Ralph
23 Act, violation of the Bane Act, assault, battery by a peace officer, IIED, and negligence
24 as insufficiently pleaded and conclusory. (Ofcr. Mot. 22–27).

25 (i) Ralph Act (Count 8)

26 Alcalá claims the Officers violated the Ralph Act because the Officers based their
27 assumption that Alcalá was under the influence of drugs on his Hispanic heritage. (FAC
28

1 ¶¶ 152–62.) Alcalá further suggests that the City is vicariously liable for the Officers’
2 conduct. (*Id.* ¶¶ 154–55.)

3 The Ralph Act protects the right of all persons within California’s jurisdiction to
4 be free from violence or intimidation “because of” a protected characteristic, including
5 race. Cal. Civ. Code §§ 51, 51.7(b)(1). To state a claim under the Ralph Act, a plaintiff
6 must show: (1) the defendant committed or threatened violent acts against him or his
7 property, (2) a motivating reason for the defendant’s conduct was the plaintiff’s
8 protected characteristic, (3) the plaintiff was harmed, and (4) the defendant’s conduct
9 was a substantial factor in causing the plaintiff harm. *See Austin B. v. Escondido Union*
10 *Sch. Dist.*, 149 Cal. App. 4th 860, 880–81 (2007).

11 Alcalá fails to plausibly state a Ralph Act claim. Relying solely on the Officers’
12 alleged misassumption that Alcalá was under the influence of drugs, Alcalá presumes
13 the Officers’ decision to arrest and use force on Alcalá was “racially motivated by their
14 perception of [Alcalá] as a male of Hispanic heritage.” (FAC ¶ 156.) But the fact that
15 the Officers allegedly made an unsupported assumption of drug use, standing alone,
16 does not plausibly suggest race or ethnicity was a motivating factor in the Officers’
17 arrest of or use of force on Alcalá.

18 The Officers went to Alcalá’s home after his daughter contacted 911 and
19 explained her concerns about Alcalá’s symptoms to the 911 operator. (*Id.* ¶ 24.) The
20 Officers were dispatched to Alcalá’s home, where they observed Alcalá lying in bed
21 motionless. (*Id.* ¶¶ 21, 24.) However, neither these nor any of Alcalá’s other allegations
22 plausibly support his conclusory inference that the Officers’ engaged in their challenged
23 conduct “because of [Alcalá’s] Hispanic heritage.” (*Id.* ¶ 100.) On the contrary,
24 considering these allegations, the Officers’ allegedly mistaken assumption of drug use
25 could equally be attributed to Alcalá’s daughter’s description of his symptoms to the
26 911 operator, the Officers’ personal observations of Alcalá’s motionless and bedridden
27 state, or other non-race and non-ethnic factors. The Court need not blindly accept
28 Alcalá’s conclusory and speculative allegations to the contrary, which are insufficient

1 to withstand a motion to dismiss. *Sprewell*, 266 F.3d at 988; *see Rodriguez v. Orange*
2 *County*, No. 3:23-cv-00823-TJW (DDLx), 2023 WL 6472000, at *7 (S.D. Cal. Oct. 4,
3 2023) (dismissing Ralph Act claim based on conclusory race allegations); *Garcia v.*
4 *Diaz*, No 5:20-cv-02564-FLA (MAAx), 2021 WL 4775638, at *12 (C.D. Cal. July 14,
5 2021) (“Conclusory allegations that Defendants’ conduct was due to Plaintiff’s race are
6 insufficient to state a Ralph Act claim.”).

7 Accordingly, the Court **GRANTS** the Officers’ and the City’s Motions and
8 **DISMISSES** Alcalá’s eighth cause of action **WITH LEAVE TO AMEND**.

9 (ii) Bane Act (Count 9)

10 Alcalá next claims the Officers violated the Bane Act by interfering with Alcalá’s
11 Fourth Amendment rights through “threats, intimidation, or coercion.” (FAC ¶¶ 163–
12 75.) He further alleges the City is vicariously liable for the Officers’ conduct. (*Id.*
13 ¶ 172.) The Officers argue that Alcalá fails to state a claim because he does not
14 adequately allege the Officers acted with specific intent to violate his constitutional
15 rights. (Ofcr. Mot. 24.)

16 To state a Bane Act claim, a plaintiff must show that the defendant interfered
17 with their constitutional rights “by threat, intimidation, or coercion.” Cal. Civ. Code
18 § 52.1(b). Unlike a § 1983 claim, a Bane Act claim requires a plaintiff to prove the
19 defendant acted with specific intent to interfere with the plaintiff’s rights. *Reese v.*
20 *County of Sacramento*, 888 F.3d 1030, 1044 (9th Cir. 2018). Specific intent may be
21 shown through evidence that the defendant acted in “reckless disregard” of the
22 plaintiff’s constitutional rights. *Id.* at 1045.

23 Alcalá fails to state a Bane Act claim. Alcalá identifies his alleged unlawful
24 arrest and the Officers’ alleged use of excessive force as the constitutional bases for his
25 claim. (FAC ¶ 165.) These actions could constitute coercion. However, Alcalá’s
26 pleading lacks factual allegations plausibly suggesting the Officers acted with specific
27 intent to deprive Alcalá of his Fourth Amendment rights, as opposed to simply acting
28 unreasonably under the circumstances. Alcalá’s allegations that the Officers

1 “intentionally and deliberately denied each of [Alcala’s] rights . . . by threats,
2 intimidation, or coercion” are conclusory and do not adequately fill that pleading gap.
3 (*Id.* ¶ 164); *Leff v. City of Garden Grove*, No. 8:19-cv-010340-AG (ADSx), 2019 WL
4 6357970, at *4 (C.D. Cal. Oct. 7, 2019) (dismissing Bane Act claim because intent
5 allegations were conclusory); *Allen v. City of Sacramento*, 234 Cal. App. 4th 41, 69
6 (2015) (explaining that “coercion [is] inherent in any arrest” and that “a wrongful arrest
7 or detention, without more, does not satisfy both elements of [the Bane Act]”). As
8 Alcala fails to adequately plead a Bane Act violation as to the Officers, vicarious
9 liability cannot attach to the City. *Segura v. City of San Bernardino*, No. 5:22-cv-
10 00277-JGB (SPx), 2024 WL 4579144, at *13 (C.D. Cal. Mar. 20, 2024).

11 Accordingly, the Court **GRANTS** the Officers’ Motion and **DISMISSES**
12 Alcala’s ninth cause of action **WITH LEAVE TO AMEND**.

13 (iii) Assault and battery (Counts 10 and 11)

14 Alcala next claims the Officers assaulted and battered him, and that the City is
15 vicariously liable for the Officers’ tortious conduct. (FAC ¶¶ 176–200.)

16 Under California law, a plaintiff asserting assault and battery claims against
17 peace officers acting in their official capacities must prove the officers used
18 “unreasonable force.” *Avina v. United States*, 681 F.3d 1127, 1131 (9th Cir. 2012)
19 (quoting *Munoz v. City of Union City*, 120 Cal. App. 4th 1077, 1102 (2004)). “Claims
20 that police officers used excessive force in the course of an arrest . . . or other seizure
21 of a free citizen are analyzed under the reasonableness standard of the Fourth
22 Amendment” *Id.* (quoting *Munoz*, 120 Cal. App. 4th at 1102). Here, as Alcala
23 plausibly states an excessive force claim against Officers Archuleta and Amaya under
24 § 1983, the Court finds that Alcala’s parallel state law claims against these Officers are
25 also plausible.

26 As to Officers Britton, Garcia, and Kovacs, Alcala abandons his assault and
27 battery claims and concedes dismissal of those claims “without prejudice.” (Opp’n
28 Ofcr. Mot. 15 n.2.) However, when a plaintiff abandons or fails to oppose an argument

1 addressing a particular claim in a motion to dismiss, courts routinely treat that
2 abandonment or failure as the plaintiff’s assent to dismissal with prejudice. *Griffin v.*
3 *Green Tree Servicing, LLC*, 166 F. Supp. 3d 1030, 1054–55 (C.D. Cal. 2015)
4 (collecting cases); *see Moore v. Apple, Inc.*, 73 F. Supp. 3d 1191, 1205 (N.D. Cal. 2014)
5 (“[W]here a plaintiff simply fails to address a particular claim in its opposition to a
6 motion to dismiss that claim, courts generally dismiss it with prejudice.” (internal
7 quotation marks omitted)). Alcala is uniquely positioned to allege facts that could
8 support an assault or battery claim against Officers Britton, Garcia, and Kovacs. His
9 express abandonment and failure to allege such facts demonstrate that there is nothing
10 left to plead. By voluntarily abandoning and conceding dismissal of his claims, Alcala
11 effectively agrees the Court may treat his abandonment as final and dismiss the
12 abandoned claims with prejudice.

13 Accordingly, the Court **GRANTS IN PART** and **DENIES IN PART** the
14 Officers’ Motion as to Alcala’s tenth and eleventh causes of action. Specifically, the
15 Court **DISMISSES** Alcala’s tenth and eleventh causes of action as to Officers Britton,
16 Garcia, and Kovacs **WITHOUT LEAVE TO AMEND** and **WITH PREJUDICE**.
17 The Court **DENIES** dismissal of these causes of action as to Officers Archuleta and
18 Amaya directly and as to the City vicariously.

19 (iv) IIED (Count 12)

20 Alcala next claims the Officers are liable for IIED because they unlawfully
21 arrested Alcala using unreasonable force and “with reckless disregard for the effect that
22 these actions and omissions would have [] on Alcala, including emotional distress.”
23 (FAC ¶¶ 201–12.) Alcala further asserts that the City is vicariously liable for the
24 Officers’ tortious conduct. (*Id.* ¶ 211.)

25 To state an IIED claim, a plaintiff must plead: “(1) extreme and outrageous
26 conduct by the defendant with the intention of causing, or reckless disregard of the
27 probability of causing, emotional distress; (2) the plaintiff’s suffering severe or extreme
28 emotional distress; and (3) actual and proximate causation of the emotional distress by

1 the defendant’s outrageous conduct.” *Tekle v. United States*, 511 F.3d 839, 855
2 (9th Cir. 2007) (quoting *Davidson v. City of Westminster*, 32 Cal. 3d 197, 209 (1982)).
3 The extreme and outrageous conduct required to sustain an IIED claim must be so
4 “extreme as to exceed all bounds of that usually tolerated in a civilized community.”
5 *Hughes v. Pair*, 46 Cal. 4th 1035, 1050 (2009). Such conduct must cause “emotional
6 distress of such substantial quality or enduring quality that no reasonable [person] in
7 civilized society should be expected to endure it.” *Id.* at 1051 (alteration in original).
8 “And the defendant’s [outrageous] conduct must be intended to inflict [such severe
9 emotional distress] or engaged in with the realization that [such] injury will result.” *Id.*
10 (citation modified).

11 Alcala fails to plausibly establish the first two elements of his IIED claim. Alcala
12 alleges that the Officers acted “outrageous[ly]” by unlawfully arresting Alcala and
13 using force on him “without any lawful justification.” (FAC ¶¶ 105, 202.) An unlawful
14 arrest by law enforcement and their use of excessive force may constitute outrageous
15 conduct. *See Gonzalez v. City of Tustin*, No. 8:23-cv-01274-FWS (ADSx), 2023 WL
16 9689159, at *13 (C.D. Cal. Dec. 28, 2023) (“The conduct underlying an excessive force
17 claim can qualify as ‘outrageous conduct’ for purposes of an [IIED] claim.”). However,
18 Alcala fails to allege how the Officers’ alleged unreasonable conduct was “so extreme
19 and outrageous as to exceed all bounds that are usually toler[ated] in a civilized
20 community.” *Gerritsen v. L.A. Cnty. Metro. Transp. Auth.*, No. 2:22-cv-06052-RGK
21 (KSx), 2023 WL 4291441, at *7 (C.D. Cal. Mar. 14, 2023); *see Rivera v. City of Santa*
22 *Ana*, No. 8:09-cv-01233-DOC (RNBx), 2011 WL 717369, at *10 (C.D. Cal. Feb. 18,
23 2011) (holding that a “[p]laintiff may not succeed in his [IIED] claim merely by proving
24 that [d]efendants’ conduct was ‘unreasonable’”). This pleading shortcoming is fatal to
25 his IIED claim. *Gerritsen*, 2023 WL 4291441, at *7 (dismissing plaintiff’s IIED claim
26 because the allegations of extreme and outrageous conduct were conclusory).

27 Similarly fatal are Alcala’s broad-stroke assertions that he suffered “great bodily
28 harm and emotional distress,” and that he “continues to suffer from emotional distress,

1 pain, suffering, paranoia, and depression.” (FAC ¶¶ 203, 207.) Without any attendant
2 factual allegations to support such symptoms or conditions, Alcala’s assertions are
3 inadequate to plausibly establish that he suffered or is suffering the sort of severe
4 emotional distress required to state a claim for IIED. *See Schultz v. Stericycle, Inc.*,
5 No. CV F 13-01244-LJO MJS, 2013 WL 4776517, at *8 (E.D. Cal. Sept. 4, 2013)
6 (finding plaintiff’s “sweeping references to ‘pain and suffering, extreme and severe
7 mental anguish, and emotional distress,’ with no facts to support such symptoms or
8 conditions,” failed to meet the “severe emotional distress” prong).

9 Further, as Alcala fails to plausibly state an IIED claim against the Officers,
10 vicarious liability against the City cannot attach. *Black v. City of Blythe*, 562 F. Supp.
11 3d 820, 832 (C.D. Cal. 2022). Accordingly, the Court **GRANTS** the Officers’ Motion
12 and **DISMISSES** Alcala’s twelfth cause of action **WITH LEAVE TO AMEND**.

13 (v) Negligence (Count 13)

14 Alcala next claims the Officers breached their duty of care by unlawfully
15 arresting Alcala and using excessive force in furtherance of the arrest. (FAC ¶¶ 215,
16 217–18.) Alcala also asserts that the City is vicariously liable for the Officers’ breach
17 and directly liable for negligent hiring, supervision, training, and failure to implement
18 protective standards that would have prevented harm to Alcala. (*Id.* ¶¶ 216, 220–22.)

19 To the extent Alcala advances direct-liability negligence claims against the City,
20 those claims must be dismissed because they are not cognizable under California law
21 absent statutory authorization. *See Johnson v. Shasta County*, 83 F. Supp. 3d 918, 936
22 (E.D. Cal. 2015) (“With respect to hiring and supervision practices, . . . there is no
23 statutory basis under California law for declaring a[] [governmental] entity directly
24 liable for negligence.”); *Black*, 562 F. Supp. 3d at 833 n.3 (same); *see also Munoz*,
25 120 Cal. App. 4th at 1112–13 (holding municipality could not be directly liable based
26 on negligent training and supervision or failure to promulgate clearer procedures).

27 Moreover, “California law does not recognize a general duty of care on the part
28 of supervisors with respect to negligent hiring, retention, or training.” *Estate of Osuna*

1 *v. County of Stanislaus*, 392 F. Supp. 3d 1162, 1182 (E.D. Cal. 2019). Although
2 California courts “recognize[] the existence of a ‘special relationship’ between arresting
3 officers and arrestees,” the issue here is “whether the supervisors responsible for hiring,
4 training, disciplining, and so forth had such a special relationship [with the arrestees].”
5 *Id.* at 1183. Alcalá fails to plead any such special relationship between himself and the
6 City’s employees who hire, train, or discipline police officers. Therefore, he fails to
7 state a negligence claim against the City on this basis.

8 Finally, as to the Officers, Alcalá bases his negligence claim on the Officers’
9 “seizure [of Alcalá] through uses of unreasonable and excessive force” in violation of
10 the Fourth Amendment. (FAC ¶ 215.) The reasonableness inquiry in the Fourth
11 Amendment context is the same analysis used in determining reasonableness under
12 California negligence law. *Hernandez v. City of Pomona*, 46 Cal. 4th 501, 513–14
13 (2009). As Alcalá plausibly states Fourth Amendment claims for unlawful arrest
14 against Officers Britton, Garcia, Kovacs, Archuleta, and Amaya, and excessive force
15 against Officers Archuleta and Amaya, the Court finds that Alcalá’s parallel negligence
16 claim on the same grounds is also plausibly stated. *See, e.g., Conta v. City of*
17 *Huntington Beach*, No. 8:21-cv-01897-JLS (KESx), 2022 WL 18278391, at *5
18 (C.D. Cal. Dec. 5, 2022) (“[A] negligence claim may proceed against officers for using
19 excessive force in effecting an arrest.”). Alcalá’s vicarious liability claim against the
20 City on these same grounds is also plausible. *Id.*

21 Accordingly, the Court **GRANTS IN PART** and **DENIES IN PART** the
22 Officers’ Motion as to Alcalá’s negligence cause of action as follows. The Court
23 **DISMISSES** this cause of action as to Officers Britton, Garcia, and Kovacs for
24 excessive force **WITHOUT LEAVE TO AMEND** and **WITH PREJUDICE**. The
25 Court further **DISMISSES** this cause of action against the City to the extent it is
26 predicated on a direct-liability theory **WITHOUT LEAVE TO AMEND** and **WITH**
27 **PREJUDICE**. Alcalá’s negligence claim survives only against the named Officers for
28

1 unlawful arrest, Officers Archuleta and Amaya for excessive force, and the City for
2 vicarious liability based on the alleged unlawful arrest and use of excessive force.

3 **B. The City’s Motion**

4 The City moves to dismiss Alcalá’s Ralph Act claim and three *Monell* claims on
5 the ground that Alcalá’s allegations are legally insufficient to impose liability on the
6 City. (City Mot. 11–18.) The City also requests that the Court take judicial notice of a
7 provision from the Garden Grove Police Department’s policy manual. (*Id.* at 15 n.1.)
8 As the Court dismisses Alcalá’s Ralph Act claim above, it need not reach the City’s
9 additional arguments to dismiss that claim. The Court therefore focuses its analysis
10 below on the City’s request for judicial notice and its arguments supporting dismissal
11 of Alcalá’s *Monell* claims.

12 *1. Request for Judicial Notice*

13 The City requests the Court to take judicial notice of a provision excerpted from
14 the Garden Grove Police Department’s policy manual to establish the adequacy of the
15 City’s police training and recruitment program at the time of Alcalá’s arrest. (City
16 Mot. 15 n.1; *see id.* Ex. A, Dkt. No. 46-1.) The policy, however, bears a copyright date
17 of March 20, 2024, which is later than the March 8, 2024 date when the incidents at
18 issue in this case occurred. (*See id.* Ex. A, at 1; FAC ¶¶ 36, 131.) The City provides
19 the Court no basis to find that the proffered version of the policy was the version in
20 effect at the time of the events in question. As such, the relevance of this policy
21 provision is elusive. *See Santa Monica Food Not Bombs v. City of Santa Monica*,
22 450 F.3d 1022, 1025 n.2 (9th Cir. 2006) (noting that courts may decline to take judicial
23 notice of irrelevant documents); *see also Price v. Clifton*, No. 2:22-cv-00091-JLS
24 (GJSx), 2024 WL 4720888, at *5 (C.D. Cal. Aug. 27, 2024) (declining to judicially
25 notice police department manual bearing copyright date later than the date the events at
26 issue took place), *report and recommendation adopted*, 2024 WL 4828700 (C.D. Cal.
27 Nov. 19, 2024). Accordingly, the Court **DENIES** the City’s request for judicial notice.

1 2. *Monell Claims*

2 As a general matter, municipal liability is not available in § 1983 actions under a
3 respondeat superior theory. *Monell*, 436 U.S. at 691. Liability attaches to a
4 municipality only when the “execution of a government’s policy or custom . . . inflicts
5 the [constitutional] injury.” *Id.* at 694. A plaintiff may establish municipal liability
6 only if they plausibly show: (1) a city employee committed a constitutional violation
7 “pursuant to a formal governmental policy” or a “longstanding practice or custom”;
8 (2) the city employee who committed the violation was an official with “final
9 policy-making authority”; or (3) an official with final policy-making authority “ratified
10 a subordinate’s unconstitutional decision or action and the basis for it.” *Gillette v.*
11 *Delmore*, 979 F.2d 1342, 1346–47 (9th Cir. 1992) (citation modified); *see City of*
12 *Canton v. Harris*, 489 U.S. 378, 390 (1989) (recognizing that a municipality’s failure
13 to train its employees can be actionable as an improper “policy”). “[T]o withstand a
14 motion to dismiss for failure to state a claim, a *Monell* claim must consist of more than
15 mere formulaic recitations of the existence of unlawful policies, conducts, or habits.”
16 *Doe #1 M.L. v. San Bernardino Sheriff Dep’t*, 753 F. Supp. 3d 1024, 1029–30 (C.D. Cal.
17 2024).

18 Alcala claims the City is liable to him under *Monell* because the City (1) has
19 “unconstitutional policies, practices, and customs,” (2) failed to adequately train its law
20 enforcement officers amounting to deliberate indifference, and (3) ratified the Officers’
21 conduct by its inaction. (FAC ¶¶ 107, 121, 132, 145.)

22 (i) Unconstitutional custom, practice, or policy (Count 5)

23 Alcala first claims the City is liable to him under *Monell* because the Officers
24 acted pursuant to an “expressly adopted policy and practice and custom” of
25 “employ[ing] excessive and unreasonable force” and “ignoring [the] medical care and
26 needs of people seeking their aid.” (FAC ¶¶ 101, 103.)

27 For a municipality to be liable for an improper express policy or custom under
28 *Monell*, a plaintiff must show that the municipality has an express “policy statement,

1 ordinance, regulation, or decision officially adopted and promulgated by that body’s
2 officers.” *Monell*, 436 U.S. at 690; *see Waggy v. Spokane County*, 594 F.3d 707, 713–
3 14 (9th Cir. 2010) (noting that a plaintiff must allege and prove an express policy exists
4 to challenge an express municipal policy or custom). Although an official policy need
5 not have “received formal approval through the body’s official decisionmaking
6 channels,” a municipality cannot be liable under § 1983 unless an action taken under
7 that express policy caused a constitutional tort. *Monell*, 436 U.S. at 691.

8 Alcala fails to show that an improper express policy exists. He asserts that the
9 City has policies of using excessive force, ignoring medical needs, and discriminating
10 based on race. (*See* FAC ¶¶ 100–01, 103). But nowhere in his pleading does Alcala
11 identify any express policy promulgated and adopted by the City or its officers. Instead,
12 Alcala merely compiles a “speculative list of various customs, policies, and practices,”
13 without any attendant “allegations of underlying facts.” *Moore v. City of Orange*,
14 No. 8:17-cv-01024-JVS (JCGx), 2017 WL 10518114, at *3 (C.D. Cal. Sept. 25, 2017)
15 (quoting *A.E. ex rel. Hernandez v. City of Tulare*, 666 F.3d 631, 637 (9th Cir. 2012)).
16 Without allegations showing that such policies exist, explaining how they are
17 constitutionally deficient, and how they amount to the City’s deliberate indifference to
18 its inhabitants’ rights, Alcala fails to state a claim based on an improper express policy.
19 *See Waggy*, 594 F.3d at 713–14; *Herd v. County of San Bernardino*, 311 F. Supp. 3d
20 1157, 1168 (C.D. Cal. 2018).

21 Absent a formal governmental policy, a plaintiff must show a longstanding
22 practice or custom that is “so permanent and well settled as to constitute a ‘custom or
23 usage’ with the force of law.” *City of St. Louis v. Prapotnik*, 485 U.S. 112, 127 (1988).
24 Alcala fails to do so.

25 An improper custom or practice claim “may not be predicated on isolated or
26 sporadic incidents” but must instead “be founded upon practices of sufficient duration,
27 frequency[,], and consistency that the conduct has become a traditional method of
28 carrying out policy.” *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996). Proof of one

1 or even two incidents of unconstitutional conduct is not sufficient to meet this standard.
2 *Saved Mag. v. Spokane Police Dep’t*, 19 F.4th 1193, 1201 (9th Cir. 2021) (single
3 incident of constitutional violation not sufficient to establish improper custom); *Meehan*
4 *v. County of Los Angeles*, 856 F.2d 102, 107 (9th Cir. 1988) (two incidents of
5 unconstitutional assault not sufficient to establish improper custom). Here, Alcalá
6 alleges a single instance of unconstitutional conduct that occurred on March 8, 2024.
7 (See FAC ¶¶ 19, 36.) Other than this lone incident, Alcalá identifies no other similar
8 instances of unlawful conduct by Garden Grove police officers. Alcalá’s allegations
9 thus amount to only an “isolated or sporadic incident[]” that cannot form the basis of a
10 *Monell* claim based on an improper custom or practice. *Trevino*, 99 F.3d at 918.

11 Accordingly, the Court **GRANTS** the City’s Motion and **DISMISSES** Alcalá’s
12 fifth cause of action **WITH LEAVE TO AMEND**.

13 (ii) Failure to train (Count 6)

14 Alcalá next claims the City is liable under *Monell* for “fail[ing] to properly and
15 adequately train” its police officers. (FAC ¶ 118.)

16 A municipality’s failure to train can serve as the basis for § 1983 liability in
17 “limited circumstances,” such as where its failure amounts to deliberate indifference.
18 *City of Canton*, 489 U.S. at 387. Absent circumstances where a failure to train is
19 expressed in actual written or oral policy, see *Bd. of Cnty. Cmm’rs v. Brown*, 520 U.S.
20 397, 407 (1997), a plaintiff ordinarily must demonstrate “[a] pattern of similar
21 constitutional violations by untrained employees,” *Connick v. Thompson*, 563 U.S. 51,
22 62 (2011). A single constitutional violation by an allegedly untrained employee is thus
23 ordinarily insufficient to demonstrate deliberate indifference in a training program.
24 However, a single violation may suffice if the need for training is “so obvious” and “so
25 likely to result in the violation of constitutional rights” that “the failure to provide proper
26 training may fairly be said to represent a policy for which the city is responsible.” *City*
27 *of Canton*, 489 U.S. at 390. This theory of single-incident liability applies in only “a
28 narrow range of circumstances” where a constitutional violation is a “highly predictable

1 consequence of the failure to train.” *Connick*, 563 U.S. at 63 (quoting *Bd. of Cnty.*
2 *Comm’rs*, 520 U.S. at 409).

3 Alcalá’s failure-to-train claim does not rest on a “pattern of similar constitutional
4 violations by untrained employees” but instead on a theory of single-incident liability.
5 *Connick*, 563 U.S. at 62; (*see, e.g.*, FAC ¶ 2 (specifying that this action arises from “a
6 confrontation that occurred on or about March 8, 2024,” with the Officers).) However,
7 Alcalá fails to establish that the facts of this case implicate the narrow range of
8 circumstances where that theory would apply.

9 Although effecting arrests, using reasonable force, and distinguishing medical
10 emergencies from intoxication may be “usual and recurring situations” for police
11 officers, (FAC ¶ 121), Alcalá does not plead facts showing that the training the City
12 provided its officers in these areas was so patently deficient or non-existent that a
13 constitutional violation was a “highly predictable consequence” of that training deficit.
14 *Connick*, 563 U.S. at 64 (quoting *Bd. of Cnty. Comm’rs*, 520 U.S. at 409). Nor does
15 Alcalá allege what training practices the City employed at the time the Officers
16 allegedly violated Alcalá’s rights, how that training was constitutionally infirm, whether
17 any policymaker was aware of the infirmity, or how the infirmity specifically caused
18 Alcalá harm. *See Waggy*, 594 F.3d at 714 (affirming dismissal of failure-to-train claim
19 where plaintiff failed to allege facts indicating what training practices the county
20 employed and what constitutionally mandated training was lacking); *Bagley v. City of*
21 *Sunnyvale*, No. 16-cv-02250-LHK, 2017 WL 344998, at *16 (N.D. Cal. Jan. 24, 2017)
22 (dismissing failure-to-train claim where plaintiff failed to allege “what training the
23 Sunnyvale police officers received” or whether “any Sunnyvale policymaker was aware
24 that the training was deficient”). Alcalá’s allegations that the City “failed to properly
25 and adequately train” officers, (FAC ¶ 118), in using reasonable force and “properly
26 identifying medical emergencies,” (*id.* ¶ 120), are boilerplate, conclusory, and cannot
27 suffice, *see Dougherty v. City of City of Covina*, 654 F.3d 892, 900–01 (9th Cir. 2011).

1 Accordingly, the Court **GRANTS** the City’s Motion and **DISMISSES** Alcalá’s
2 sixth cause of action **WITH LEAVE TO AMEND**.

3 (iii) Ratification (Count 7)

4 Alcalá next claims the City is liable under a *Monell* ratification theory because it
5 failed to discipline the Officers for their alleged misconduct. (FAC ¶¶ 129–51.)

6 “Where a plaintiff alleges that a municipality’s conduct runs afoul of [§ 1983] for
7 the city’s failure to discipline its employees, the claim is understood as one for
8 ratification.” *Rabinovitz v. City of Los Angeles*, 287 F. Supp. 3d 933, 967 (C.D. Cal.
9 2018). To show ratification, a plaintiff must prove that “authorized policymakers
10 approve[d] a subordinate’s decision and the basis for it.” *Prapotnik*, 485 U.S. at 127.
11 The authorized policymaker must have “knowledge of the alleged constitutional
12 violation,” *Christie v. Iopa*, 176 F.3d 1231, 1239 (9th Cir. 1999), and must “ma[k]e a
13 deliberate choice to endorse” the subordinate’s actions, *Gillette*, 979 F.2d at 1348. “The
14 mere failure to discipline” an employee for misconduct therefore “does not amount to
15 ratification of their allegedly unconstitutional actions.” *Sheehan v. City & County of*
16 *San Francisco*, 743 F.3d 1211, 1231 (9th Cir. 2013), *rev’d in part on other grounds*,
17 575 U.S. 600 (2015).

18 Alcalá fails to state a ratification claim under *Monell*. The only facts Alcalá
19 proffers are his “information and belief” allegations that “a final policymaker” “knew
20 of[] and specifically approved” the Officers’ alleged unconstitutional actions “[b]y
21 doing nothing substantive in response to the incident.” (FAC ¶¶ 132, 144; *see also id.*
22 ¶ 145 (“By their inactions to this incident, the authorized policymakers within the City
23 have shown affirmative agreement with each of the actions of the Officer Defendants.”
24 (emphasis omitted).) Alcalá further surmises that “the final policymakers,” including
25 “the then-Chief of the [Garden Grove Police Department],” failed to “discipline[],
26 reprimand[], retrain[], . . . suspend[], or otherwise penalize[]” the Officers. (*Id.* ¶¶ 102,
27 141–42.) These allegations are inadequate because they fail to demonstrate that any
28 policymaker was actually aware of the Officers’ alleged unconstitutional conduct.

1 *Caldwell v. City of San Francisco*, No. 12-cv-01892-DMR, 2020 WL 7643124, at *18
2 (N.D. Cal. Dec. 23, 2020) (granting summary judgment on ratification theory where
3 plaintiff failed to show the police chief or any other policymaker was aware of the
4 allegedly unconstitutional conduct). Alcalá’s allegations are also deficient because they
5 overlook that the City’s simple acquiescence or “mere failure to discipline . . . does not
6 amount to ratification.” *Sheehan*, 743 F.3d at 1231 (“Ratification . . . generally requires
7 more than acquiescence.”); *Rabinovitz*, 287 F. Supp. 3d at 968 (finding plaintiff’s
8 evidence that officer “ha[d] never been disciplined” was “woefully inadequate to prove
9 ratification”).

10 As Alcalá’s ratification theory rests on nothing more than the City’s alleged
11 inaction and failure to discipline the Officers, he fails to state a cognizable ratification
12 claim under *Monell*. Accordingly, the Court **GRANTS** the City’s Motion and
13 **DISMISSES** Alcalá’s seventh cause of action **WITH LEAVE TO AMEND**.

14 **V. CONCLUSION**

15 For the reasons discussed above, the Court **GRANTS IN PART** and
16 **DENIES IN PART** the Officers’ Motion to Dismiss. (Dkt. No. 47.) Specifically, the
17 Court **DISMISSES** Alcalá’s third, fourth, eighth, ninth, and twelfth causes of action
18 **WITH LEAVE TO AMEND**. The Court further **DISMISSES** Alcalá’s tenth and
19 eleventh causes of action as to Officers Britton, Garcia, and Kovacs **WITHOUT**
20 **LEAVE TO AMEND** and **WITH PREJUDICE**. And the Court **DISMISSES**
21 Alcalá’s thirteenth cause of action as to Officers Britton, Garcia, and Kovacs, to the
22 extent it is based on Alcalá’s excessive force allegations, **WITHOUT LEAVE TO**
23 **AMEND** and **WITH PREJUDICE**.

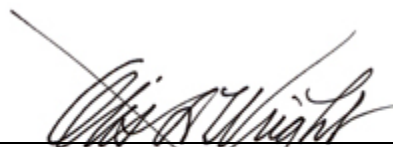
24 The Court further **GRANTS** the City’s Motion to Dismiss, (Dkt. No. 46), and
25 **DISMISSES** Alcalá’s fifth, sixth, seventh, eighth, ninth, and twelfth causes of action
26 against the City **WITH LEAVE TO AMEND**. The Court further **DISMISSES**
27 Alcalá’s thirteenth cause of action against the City for direct municipal liability
28 **WITHOUT LEAVE TO AMEND** and **WITH PREJUDICE**.

1 The following causes of action survive the City’s and Officers’ Motions:
2 (1) Count 1 for unlawful arrest against the Officers; (2) Count 2 for excessive force
3 against Officers Archuleta and Amaya; (3) Counts 10 and 11 for assault and battery
4 against Officers Archuleta and Amaya directly, and the City vicariously; and
5 (4) Count 13 for negligence against the Officers for the alleged unlawful arrest,
6 Officers Archuleta and Amaya for the alleged use of excessive force, and the City for
7 vicarious liability based on the alleged unlawful arrest and use of excessive force.

8 If Alcalá chooses to amend his complaint to cure the above-discussed
9 deficiencies, he shall file a Second Amended Complaint by no later than **fourteen (14)**
10 **days** from the date of this Order, in which case the City and the Officers shall answer
11 or otherwise respond to the Second Amended Complaint within **fourteen (14) days** of
12 Alcalá’s filing. If Alcalá does not timely amend, then the causes of action the Court
13 dismisses with leave to amend shall be deemed dismissed with prejudice as of the lapse
14 of Alcalá’s filing deadline. In that event, the City and the Officers shall answer the
15 surviving claims in the First Amended Complaint within **fourteen (14) days** of the lapse
16 of Alcalá’s filing deadline.

17
18 **IT IS SO ORDERED.**

19
20 December 5, 2025

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23 **OTIS D. WRIGHT, II**
24 **UNITED STATES DISTRICT JUDGE**
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