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APRIL JAMES, EUNICE SWEARINGER, STEVE BRITTON
AND ROUND VALLEY INDIAN TRIBES

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

APRIL JAMES, EUNICE SWEARINGER, STEVE BRITTON, and ROUND VALLEY INDIAN TRIBES,

Plaintiffs,

v.

MATTHEW KENDALL, Sheriff of Mendocino County; COUNTY OF MENDOCINO; WILLIAM HONSAL, Sheriff of Humboldt County; JUSTIN PRYOR, deputy of Humboldt County Sheriff's Office; COUNTY OF HUMBOLDT; SEAN DURYEE, Commissioner of the California Highway Patrol; CALIFORNIA HIGHWAY PATROL; and DOES 1 through 50,

Defendants.

Case No. 1:25-cv-03736-RMI

PLAINTIFFS' OPPOSITION TO DEFENDANTS' KENDALL AND MENDOCINO COUNTY'S MOTION TO DISMISS COMPLAINT

Date: August 19, 2025
Time: 11:00 a.m.
Crtrm: 1
Before: Honorable Robert M. Illman

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INTRODUCTION

In their Motion to Dismiss ("Motion") Plaintiffs' Complaint ("Complaint"), Defendants Mendocino County and Sheriff Kendall ("Defendants") ask this Court to dismiss each of the Plaintiffs' claims for lack of subject matter jurisdiction, failure to state facts sufficient to support claims, no respondeat superior liability, redundant defendants and failure to allege or comply with California statutory requirements. But their attacks falter at every turn. Plaintiffs have alleged an ongoing pattern of warrantless searches, seizures, detentions, and property destruction on Indian trust allotments on the Round Valley Indian Reservation ("Reservation"), including on the individual Plaintiffs' April James, Eunice Swearinger and Steve Britton's ("Indians") trust allotments, in violation of federal law that inflicts concrete, imminent harm and establishes a credible threat of future injury. These unprovoked raids present quintessential federal questions and issues of tribal-sovereignty and self-governance that invoke this Court's subject-matter jurisdiction under both 28 U.S.C. § 1331 and § 1362 based on the Fourth and Fourteenth Amendments, 42 U.S.C. § 1983, the Indian Commerce Clause, Public Law 280 (18 U.S.C. § 1162, and 28 U.S.C. § 1360), and federal common law. At the same time, Plaintiffs' state-law tort claims are actionable under California's Tort Claims Act ("CTCA") (Gov. Code §§ 820, 815.2) without any need for an implied constitutional cause of action, and any technical shortfall in pleading CTCA compliance is readily curable. Against Mendocino County and Sheriff Kendall, Plaintiffs have properly pleaded *Monell v. Department of Social Services*, 436 U.S. 658 (1978) ("*Monnell*") liability, individual-capacity Bane Act and negligence claims under Federal Rules of Civil Procedure, Rule 8's notice-pleading standard, and official-capacity claims that alone can secure prospective relief.

Defendants' motion would strip Plaintiffs of every avenue for redress—jurisdictional, constitutional, statutory, and procedural—despite the Complaint's detailed allegations and controlling authority affirming each claim. Their Motion is meritless and should be denied in its entirety.

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FACTS AND BACKGROUND

As a federally recognized Indian tribe, the Round Valley Indian Tribes ("Tribe") exercises jurisdiction over the Reservation in what is now Mendocino County. Compl. ¶ 21 (Doc. 1). Under 18 U.S.C. § 1151, all lands within the boundaries of the Reservation are Indian country. Compl. ¶ 28.

Each of the Indians, members of the Tribe, alleged that the Defendants raided their trust allotments on the Reservation and searched, seized and destroyed property thereon without a valid search warrant and without probable cause. Compl. ¶¶ 40-49. They alleged that these trust allotments are recorded with the Land Titles and Records Office of the Bureau of Indian Affairs. Compl. ¶¶ 40, 43, 49.

The Tribe's Constitution establishes the Tribal Council (the Tribe's elected government), as the Tribe's governing body with legislative powers to enact laws, regulations, and policies through ordinances, resolutions and other legislative actions on behalf of the Tribe. Compl. ¶ 30.

The Tribal Council enacted the Compassionate Use Ordinance in 2006, regulating medical cannabis cultivation, possession and use by tribal citizens on the Reservation. Compl. ¶ 31, Ex. A (Doc. 1 at 34-37) (available at https://www.rvit.org/government/documents-forms (last visited June 6, 2025). The Ordinance, as amended, explicitly prohibits interpreting it to allow the imposition of State civil regulatory laws on the Reservation and asserts the inherent authority of the Tribe to regulate all individuals within its territory. Compl. ¶ 31, Ex. A (Doc 1 at 38). Under the Ordinance, County Sheriff's deputies are subject to strict limitations when operating within the Reservation. They must provide reasonable advance notification to the Tribe's Tribal Police before entering the Reservation if their actions are likely to involve enforcement of state marijuana laws. Compl. ¶ 31, Ex. A (Doc 1 at 38). Furthermore, any search, arrest, extradition, or investigation related to state marijuana laws involving tribal members must be conducted in consultation, communication, and coordination with Tribal Police. Compl. ¶ 31, Ex. A (Doc 1 at 38). The Ordinance mandates that these procedures be strictly followed, ensuring that tribal sovereignty and jurisdiction are respected during any enforcement activities within the Reservation. Compl. ¶ 31, Ex. A (Doc 1 at 38).

The Defendants, through Humboldt County Sheriff's deputies, left a search warrant with Plaintiff April James after they had held her at gunpoint, searched her home and destroyed her cannabis cultivation. Compl. ¶¶ 41-42, 51, Ex. E (Doc 1 at 63). The search warrant states it was issued under Penal Code 1524 for, among other things, property used to commit a felony. The affidavit filed in support of the search warrant states that the subject property is Ms. James' trust allotment on the Reservation. *See* Declaration of April James in Support of Plaintiffs' Motion for Partial Summary Judgment ("James Decl.") ¶ Ex. A, filed concurrently herewith; Compl. ¶ 40, Ex. B (Doc 1 at 42-44). Defendants likely relied on but did not present similar search warrants to raid the Reservation trust allotments of Plaintiffs Eunice Swearinger and Steve Britton. *See* Compl. ¶¶ 38, 43-50 (Doc 1).

Defendants' raids of each of the Indians' Reservation trust allotments are consistent with Defendants' pattern and practice of raiding Reservation trust allotments for over a decade under the pretense of illegal cannabis cultivation despite federal law, particularly Public Law 280, prohibiting them from enforcing State and County civil regulatory laws against Indians on the Reservation. *See* Compl. ¶¶ 54-58, 74-75 (Doc 1).

STANDARD OF REVIEW

A. Federal Rules of Civil Procedure, Rule 12(b)(1)

Federal Rules of Civil Procedure, Rule 12(b)(1) authorizes a court to dismiss claims for lack of subject matter jurisdiction. A Rule 12(b)(1) jurisdictional attack can be either facial or factual. *White v. Lee*, 227 F.3d 1214, 1242 (9th Cir. 2000). A facial attack contends that the complaint's allegations are insufficient to establish federal jurisdiction; a factual attack disputes the truth of allegations that would otherwise confer jurisdiction. *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). Here, Defendants' Rule 12(b)(1) arguments focus on Plaintiffs' standing and lack of federal law to request declaratory and injunctive relief, and, thus, they make a facial attack under Rule 12(b)(1). *See* Motion at 2 (Doc. 20). For a Rule 12(b)(1) facial challenge, the court must accept the Complaint's allegations as true and construe them most favorably to the nonmoving party. *Strojnik v. Kapalua Land Co. Ltd*, 379 F. Supp. 3d 1078, 1082 (D. Haw. 2019) (citing *Warren v. Fox Family Worldwide, Inc*., 328 F.3d 1136, 1139 (9th Cir. 2003)); *see Savage v. Glendale Union*

High Sch., Dist. No. 205, Maricopa Cty., 343 F.3d 1036, 1039 (9th Cir. 2003); *Rimac v. Duncan*, 319 F. App'x 535, 536 (9th Cir. 2009). In addition, "imperfections in pleading style will not divest a federal court of jurisdiction where the complaint as a whole reveals a proper basis for jurisdiction." *Loss v. Blankenship*, 673 F.2d 942, 950 (7th Cir. 1982).

B. Federal Rules of Civil Procedure, Rule 12(b)(6)

Rule 12(b)(6) motions to dismiss for failure to state a claim are disfavored. *Broam v. Bogan*, 320 F.3d 1023, 1028 (9th Cir. 2003). They are "especially disfavored" where the complaint sets forth a novel legal theory "that can best be assessed after factual development." *McGary v. City of Portland,* 386 F.3d 1259, 1270 (9th Cir. 2004). A motion to dismiss for failure to state a claim fails if the complaint provides "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) ("*Twombly*"). The Rule 8 pleading standard "does not require detailed factual allegations, but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) ("*Iqbal*") (citing *Twombly*, 550 U.S. at 555). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly*, 550 U.S. at 556). "When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." *Id*. at 679. Applying this standard, the Court should accept all well-pleaded facts in the complaint as true and then ask whether those facts state a plausible claim for relief. *See id*. The Defendants' fact-based arguments should therefore be disregarded. *See* generally Motion at 11, 14-17 (Doc. 20).

ARGUMENT

I. THIS COURT HAS JURISDICTION OVER PLAINTIFFS' FIRST AND SECOND CLAIMS FOR DECLARATORY AND INJUNCTIVE RELIEF

This Court has Jurisdiction over Plaintiffs' First and Second claims for declaratory and injunctive relief. Defendants make three arguments challenging the Court's jurisdiction: (1) Plaintiffs lack standing to seek declaratory or injunctive relief because they have failed to allege an imminent future injury; (2) Plaintiffs have failed to plead any federal law establishing jurisdiction

to maintain this action; and (3) federal common law does not establish a right on the part of Plaintiffs to be free from criminal process and therefore leave to amend should not be granted. Based on these arguments, and in the entirety of their Motion, Defendants fail to meet their burden to demonstrate that any claim should be dismissed.

A. Plaintiffs Have Standing To Seek Declaratory and Injunctive Relief

Plaintiffs have standing to seek prospective relief under Article III because they have suffered an "injury in fact" that is causally connected to the Defendants' challenged conduct, and which is "likely to be redressed by a favorable decision." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). Plaintiffs alleged that they "suffered an invasion of a legally protected interest that is concrete and particularized and actual or imminent, not conjectural or hypothetical." *Spokeo*, 578 U.S. at 339 (internal quotation marks omitted).

To establish Article III standing for prospective injunctive relief, a plaintiff must show "certainly impending" future injury or a "substantial risk" that harm will recur. *In re Zappos.com, Inc.*, 888 F.3d 1020, 1024 (9th Cir. 2018) (quoting *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014)). The Ninth Circuit recognizes two ways to demonstrate this threat: (1) by showing the injury stems from an official written policy, or (2) by showing a pattern of officially sanctioned conduct that violates federal rights. *Armstrong v. Davis,* 275 F.3d 849, 860-61 (9th Cir. 2001) (quoting *LaDuke v. Nelson*, 762 F.2d 1318, 1324 (9th Cir. 1985) ("*LaDuke*")).

Defendants argue that Plaintiffs lack standing because they have not established imminent future harm. Motion at 5-6. But Plaintiffs allege an ongoing pattern of unlawful enforcement actions—specifically, warrantless searches, seizures, and destruction of property on the Reservation—based on a continuing policy of applying State and County cannabis laws to tribal members. These allegations establish a "credible threat" of future harm sufficient to support standing. *Kolender v. Lawson*, 461 U.S. 352, 357 n.3 (1983); *LaDuke*, 762 F.2d at 1324–25 (distinguishing *Lyons* and upholding injunction against INS prohibiting warrantless home searches of migrant laborers where challenged conduct stemmed from a "standard pattern of officially sanctioned behavior" likely to recur, and plaintiffs faced harm without needing to trigger a police

encounter); *cf. City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983). Plaintiffs in this case have adequately and specifically alleged the *LaDuke* factors. *See, e.g.,* Compl. ¶¶ 20-21, 23-25, 27-28, 36, 40 (Doc. 1).

Defendants rely entirely on *City of Los Angeles v. Lyons* to argue that Plaintiffs' future injury is too speculative. But *Lyons* is readily distinguishable, because *Lyons* could not demonstrate he was at risk of future injury or that officers were authorized to engage in misconduct. *Lyons*, 461 U.S. at 95. The *Lyons* Court emphasized the unlikely sequence of events that would have to occur for Lyons to be subjected to a chokehold again by the Los Angeles Police Department—that he would have to violate the law, be stopped for that violation, and be choked without any provocation or legal excuse, contrary to departmental policy. *Id.* at 108.

Here, Plaintiffs have alleged concrete and particularized injuries—warrantless and invalid searches and seizures and destruction of Reservation trust properties in violation of federal law—that are the direct result of Defendants' ongoing enforcement of State and County cannabis laws. Compl. ¶¶ 38-52, 55-62, 76-77 (Doc. 1). These injuries are not isolated or speculative; they stem from a continuing policy and practice of applying State regulatory laws—such as provisions of the California Health and Safety Code—despite the absence of any statutory authority permitting such enforcement in Indian country. *See Susan B. Anthony*, 573 U.S. at 157-160 (describing "substantial risk" in the context of unconstitutional law enforcement); *Melendres v. Arpaio*, 695 F.3d 990, 998, 1002 (9th Cir. 2012); *LaDuke*, 762 F.2d at 1321. Defendants never specified any California law that would justify their raids on the Plaintiffs' Reservation properties.[1] Consequently, the Indians suffer actual injury by continuing to engage in cannabis cultivation that Defendants continue to treat as criminal conduct under State law, and the Tribe suffers actual injury by repeated violations of its sovereignty and inherent right to self-governance.

Unlike *Lyons*, Plaintiffs here do not need to engage in unlawful conduct or provoke a police encounter to face future harm. They are targeted precisely because the Indians engage in lawful

[1] Sheriff Kendall justified the raids when he remarked that the cannabis cultivations on the Reservation "were not county or state licensed and/or appeared to also have environmental impact crimes taking place." Compl. ¶ 58, Ex. G (Doc. 1 at 81). None of this information was included in the search warrant served on Plaintiff James (Plaintiffs Swearinger and Britton were not served with search warrants).

activities under the Tribe's cannabis ordinance—activities over which the State has no jurisdiction. Compl. ¶¶ 32-52, 55-62, 74-76, 80-83 (Doc. 1). This pattern of enforcement, carried out without probable cause and in violation of federal law, including Public Law 280, demonstrates a credible and ongoing threat of repeated violations. *See LaDuke*, 762 F.2d at 1326; *Thomas*, 978 F.2d at 508 (plaintiffs lack of provocation relevant to immediacy of injury analysis).

The Ninth Circuit has repeatedly upheld standing in similar circumstances. In *Chemehuevi Indian Tribe v. McMahon*, 934 F.3d 1076 (9th Cir. 2019) ("*McMahon*"), the court held "San Bernadino County does not have jurisdiction to enforce California regulatory laws within [the Reservation]" and that tribal members could therefore bring § 1983 claims against the County and against Sheriff John McMahon. *Id*. at 1082. Similarly, in *Hawkins v. Comparet-Cassani*, 251 F.3d 1230, 1236–37 (9th Cir. 2001), and *Thomas v. City of Los Angeles*, 978 F.2d 504, 508 (9th Cir. 1992), courts found standing where plaintiffs alleged a pattern of unconstitutional conduct rooted in official policy.

Here, Plaintiffs allege, based on public comments by Sheriff Kendall, that the Sheriffs and CHP executed 18 search warrants over a two-day period targeting Reservation properties based on aerial surveillance and the absence of state or county cannabis licenses. Compl. ¶ 58, Ex. G (Doc.1 at 83) ("[The Reservation] properties were not *county or state licensed* and/or appeared to also have environmental impact crimes taking place.") (emphasis added). Sheriff Kendall publicly confirmed that these raids were part of an ongoing enforcement campaign and stated that prosecutions would continue. *Id*. This is not speculative—it is a declared policy of continued enforcement. Plaintiffs, therefore, have established an "injury in fact," for standing purposes. *LaDuke*, 762 F.2d at 1323, quoting *Kolender*, 461 U.S. at 357 n.3 ("credible threat" of future harm adequate to establish injury in fact).

Plaintiffs have also incorporated multiple reports, articles, and a 2022 search warrant and supporting affidavit documenting similar raids on Reservation lands in violation of federal law. Compl. ¶¶ 56–58 (Doc 1). Courts have found that even a handful of incidents—or a single article—can support the existence of an unwritten policy sufficient to establish standing. *See, e.g., Menotti v. City of Seattle*, 409 F.3d 1113, 1147–48 (9th Cir. 2005); *Oyenik v. Corizon Health, Inc*., 696 F.

App'x 792, 794 (9th Cir. 2017); *Ortega-Melendres v. Arpaio*, 836 F. Supp. 2d 959, 986–87 (D. Ariz. 2011).

Moreover, the injuries alleged—unlawful searches, seizures, and destruction of property and infringement of the Tribe's sovereignty and inherent right to self-governance—are concrete, particularized, and ongoing. Plaintiffs do not challenge a single past incident; they challenge a continuing policy that threatens future harm. *See Susan B. Anthony List*, 573 U.S. at 157–63; *LaDuke*, 762 F.2d at 1323 ("Where defendants have repeatedly engaged in the injurious acts in the past, there is a sufficient possibility that they will engage in them in the near future.").

Defendants cannot ignore these allegations and point to alternative interpretations of the facts alleged, particularly for a motion to dismiss. *See* Motion at 9 ("a tribe's sovereign immunity may not prevent criminal processes associated with the investigation of a crime, including execution of a search warrant."); 10-11 (search warrants may be served on a reservation for the commission of a crime). Cultivating cannabis is not a crime, as Plaintiffs alleged. Compl. ¶¶ 34-37 (Doc 1). Defendants' decade-long pattern of raiding Reservation trust allotments establishes a credible likelihood of future violations, satisfying the "realistic repetition" requirement. *LaDuke*, 762 F.2d at 1323.

Finally, the enforcement of State and County regulatory laws on the Reservation constitutes not only a violation of individual constitutional rights but also an invasion of tribal sovereignty and the Tribe's inherent right to self-government—an injury courts have recognized as irreparable. *See Ute Indian Tribe of Uintah & Ouray Reservation v. Utah*, 790 F.3d 1000, 1005 (10th Cir. 2015) (Gorsuch, J.); *Wyandotte Nation v. Sebelius*, 443 F.3d 1247, 1255–56 (10th Cir. 2006); *Prairie Band of Potawatomi Indians v. Pierce*, 253 F.3d 1234, 1250 (10th Cir. 2001).

Plaintiffs have plausibly alleged a credible threat of future injury stemming from an ongoing policy and pattern of unlawful enforcement. They have standing to seek declaratory and injunctive relief under well-established precedent.

B. The Court Has Jurisdiction Under Federal Law

Plaintiffs invoke federal question jurisdiction under 28 U.S.C. § 1331 because their claims arise under the Constitution, federal statutes—including 42 U.S.C. § 1983—and federal common

law. *See Grable & Sons Metal Products, Inc. v. Darue Engineering & Mfg*., 545 U.S. 308, 312 (2005) (§ 1331 is "generally invoked" for claims alleged under 42 U.S.C. § 1983); *Garot v. Cnty. of San Diego*, Case No.: 19-cv-01650-H-AGS (S.D. Cal. Jan 05, 2021) (finding jurisdiction over § 1983 claims). Contrary to Defendants' assertion (Motion at 9), federal jurisdiction under § 1331 extends to claims arising under federal common law.[2] *Coeur D'Alene Tribe v. Hawks*, 933 F.3d 1052, 1055 (9th Cir. 2019) (citing *Nat'l Farmers Union Ins. Cos. v. Crow Tribe of Indians*, 471 U.S. 845, 850 (1985); *see also Cnty. of Oneida v. Oneida Indian Nation*, 470 U.S. 226, 233-36 (1985); *Illinois v. City of Milwaukee*, 406 U.S. 91, 100 (1972); *Bishop Paiute Tribe v. Inyo Cnty*., 863 F.3d 1144, 1152 (9th Cir. 2017) ("Questions of federal common law present a federal question that can serve as the basis of federal subject matter jurisdiction pursuant to 28 U.S.C. § 1331."). A claim arises under federal law when the law "creates the cause of action" or "a substantial question of federal law is a necessary element" of the well-pleaded complaint. *Id*. (quoting *Morongo Band of Mission Indians v. Cal. State Bd. of Equalization*, 858 F.2d 1376, 1383 (9th Cir. 1988)).

Jurisdiction is also conferred on the Court under 28 U.S.C. § 1362, which authorizes tribes to bring actions "wherein the matter in controversy arises under the Constitution, laws, or treaties of the United States." Courts consistently hold that claims asserting federally derived property rights, including tribal possessory interests in land, are "clearly within § 1362's scope." *Gila River Indian Cmty. v. Cranford*, 459 F. Supp. 3d 1246, 1252 (D. Ariz. 2020) (citing *Fort Mojave Tribe v. Lafollette*, 478 F.2d 1016, 1018 (9th Cir. 1973); *Chilkat Indian Village v. Johnson*, 870 F.2d 1469 (9th Cir. 1989); *Gila River Indian Community v. Henningson, Durham & Richardson,* 626 F.2d 708, 714 (9th Cir. 1980). The "common thread" running through cases that extend the jurisdictional reach of § 1362 is that "they all involved possessory rights of the tribes to tribal lands." *Henningson, Durham & Richardson*, 626 F.2d at 714.

[2] Defendants' reliance on *Inyo County v. Paiute-Shoshone Indians,* 538 U.S. 701 (2003) is inapposite. That case turned on the Tribe's inability to assert a § 1983 claim. Here, the individual Plaintiffs are proper claimants and seek relief under both § 1983 and federal common law. *McMahon*, 934 F.3d at 1082-83 ("The individual plaintiffs may bring § 1983 claims against the defendants.").

Congress enacted § 1362 to enable tribes to bring the same types of federal cases the United States could bring as trustee to protect tribal interests. *Moe v. Confederated Salish & Kootenai Tribes of Flathead Reservation*, 425 U.S. 463, 472 (1976) (citation omitted). A tribe's ability to sue under § 1362 is "at least in some respects as broad as that of the United States suing as the tribe's trustee." *Moe*, 425 U.S. at 473. This grant of jurisdiction was intended to ensure federal court access for tribes to safeguard substantive rights, including tribal self-government. *Id.* at 468 n.7. The Tribe's sovereignty and inherent right to self-government is alleged to be at issue here where Public Law 280's grant of civil jurisdiction prohibits the application of State and County regulations to Reservation lands. *See United States v. Cty of Humboldt*, 615 F.2d 1260 (9th Cir. 1980); *Santa Rosa Band v. Kings County*, 532 F.2d 655 (9th Cir. 1975); *see also United States v. Washington*, 459 F. Supp. 1020 (W.D. Wash. 1978), appeal dismissed, 573 F.2d 1117 (9th Cir. 1978) (action to stop state interference with tribal fishing rights), aff'd, 645 F.2d 749 (9th Cir. 1981).

The interpretation of 28 U.S.C. §§ 1331 and 1362 "must be dictated by a principle deeply rooted in Court's jurisprudence: [s]tatutes are to be construed liberally in favor of the Indians, with ambiguous provisions interpreted to their benefit." *County of Yakima v. Confederated Tribes of the Yakima Indian Nation*, 502 U.S. 251, 269 (1992). This canon of construction is grounded in the trust doctrine, which includes the federal government's duty to protect tribal self-government from diminution by states. *See White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143-44 (1980).

Plaintiffs invoke federal jurisdiction based on constitutional and statutory provisions and federal common law that prohibit state interference with tribal sovereignty and the possession, use and regulation of the Indians' allotments. The Complaint alleges claims that arise under the Fourth Amendment and the Indian Commerce Clause, U.S. Const. art. I, § 8, 42 U.S.C. § 1983, Public Law 280 (18 U.S.C. § 1162; 28 U.S.C. § 1360), federal trespass doctrine (25 U.S.C. § 345 and 28 U.S.C. § 1353), and multiple federal cases, each of which confers subject matter jurisdiction on this Court.

Public Law 280 provides the limited framework under which states may exercise jurisdiction in Indian country, as defined under 18 U.S.C. § 1151(a). Compl. ¶¶ 33-35, 54 (Doc. 1). However, under *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), states may not enforce civil regulatory laws—such as California's cannabis laws—on tribal lands. *See* Compl.

¶¶ 34, 54 (Doc. 1). Enforcement of County and State regulatory laws by the Sheriff in this case overstepped those bounds and violated Public Law 280. *See* Comp. ¶¶ 38-58, 74-75 (Doc. 1); *see also United States v. E.C. Investments, Inc.*, 77 F.3d 327, 330–31 (9th Cir. 1996) (holding that California lacked jurisdiction to prosecute alleged violations of state gambling laws by means of Class III gaming conduct); *McMahon,* 934 F.3d at 1082. Plaintiffs further allege that California's assertion of authority over Reservation trust lands violates the Constitution and federal law. Compl. ¶ 32 (Congress holds exclusive authority over tribal affairs under the Indian Commerce Clause, and no law grants Defendants civil jurisdiction over Indians for actions occurring on tribal lands), ¶ 74 (Doc. 1); *see Cranford*, 459 F. Supp. 3d at 1253 (Tribe's water rights claims under the Commerce Clause, art. I, § 8, "fall clearly within the scope of § 1362").

As in *Bishop Paiute Tribe*, Plaintiffs have also explicitly alleged violations of federal common law and included case law supporting these allegations in seeking declaratory and injunctive relief. *See* Compl. ¶¶ 5, 32-34 (Doc. 1); *Bishop Paiute Tribe*, 862 F.3d at 1152. They allege that the Indians are currently engaged in activities authorized by the Tribe's cannabis ordinance and that the Sheriff has declared to be criminal activity justifying raids on their Reservation trust allotments and on similarly situated properties. Compl. ¶¶ 31, 54-58, 88 (Doc. 1). The threat of future enforcement is not conjectural; it is real, ongoing, and directly traceable to the Sheriff's conduct. *Id*.; *see also Segundo v. City of Rancho Mirage*, 813 F.2d 1387 (9th Cir. 1987) (rent control ordinance inapplicable to allotted Indian land).

Defendants' representation that they entered Reservation lands solely "to execute a search warrant as to tribal land during a felony criminal investigation" (Motion at 9) is, at the very least, misleading. It is also an admission that they went onto Reservation properties to execute a search warrant that, according to Sheriff Kendall, was based on "illegal cannabis being grown [that was] not county or state licensed and/or appeared to also have environmental impact crimes taking place." Compl. ¶ 58, Ex. G (Doc. 1 at 83). Critically, the supporting affidavit does not allege that any criminal activity occurred on Plaintiffs' properties; it merely asserts there was probable cause to seize cannabis plants. Compl. ¶ 51 (Doc. 1). There is no mention whatsoever of a felony investigation in the affidavit.

Because Plaintiffs' causes of action arise under federal law and challenge the unlawful imposition of state authority in Indian country, this Court has jurisdiction under 28 U.S.C. §§ 1331 and 1362. Plaintiffs' claims are redressable, grounded in federal law, and fall squarely within the scope of Article III jurisdiction.

II. PLAINTIFFS' STATE LAW CLAIMS ARE ACTIONABLE UNDER THE GOVERNMENT TORT CLAIMS ACT WITHOUT RELYING ON AN IMPLIED CONSTITUTIONAL TORT

Defendants assert that Plaintiffs' state law claims must be dismissed because Article I, Section 13 of the California Constitution does not itself supply a private right of action. Motion at 11. This argument misconstrues both the allegations and the governing law.

Government Code §§ 820 and 815.2 establish that public employees and entities may be sued "to the same extent as a private person" for conduct that would give rise to tort liability at common law. Plaintiffs do not seek to imply a constitutional tort. Rather, they allege that Defendants' conduct—warrantless searches and seizures, unlawful detentions, and the destruction of personal property—that if committed by a private individual would constitute trespass, conversion, and false imprisonment. Compl. ¶¶ 92–94 (Doc. 1). That conduct gives rise to liability under §§ 815.2 and 820.

Section 820 renders officers personally liable for those torts, and § 815.2 makes the Counties vicariously liable for their actions. That statutory framework is the precise mechanism for redressing Article I, Section 13 violations under California law.

California courts have long endorsed this framework. In *Sullivan v. County of Los Angeles*, 12 Cal.3d 710 (1974), the California Supreme Court upheld claims for false imprisonment and excessive force brought against a county under § 815.2, even where the underlying conduct implicated constitutional protections. In *Bradford v. State of California*, 36 Cal.App.3d 16 (1973), the Court of Appeal allowed a tort claim to proceed against public entities under §§ 820 and 815.2 based on negligent acts by public employees that resulted in wrongful arrest and detention. And in *Asgari v. City of Los Angeles*, 15 Cal.4th 744, 752 (1997), the Court confirmed that false imprisonment is actionable under §§ 815.2 and 820 without requiring any separate statutory cause of action.

Defendants' reliance on *Katzberg v. Regents of the Univ. of Cal.*, 29 Cal. 4th 300 (2002), is misplaced. K*atzberg* does not bar statutory tort claims for constitutional violations. *Katzberg* addressed whether the Court should recognize a new, free-standing damages remedy under Article I, Section 7(a) in the absence of statutory authority. It does *not* foreclose statutory tort claims under §§ 820 and 815.2. *Katzberg* expressly acknowledged that constitutional violations remain actionable when pleaded through "an established statutory mechanism or common law theory." *Id*. at 317–18. That is exactly Plaintiffs' approach here.

Nor do any of the statutory immunities under the CTCA apply. Government Code § 820.2, which provides discretionary act immunity, is inapplicable where conduct violates clearly established rights—such as the Fourth Amendment and its state constitutional counterpart. *See Sullivan*, 12 Cal.3d at 721. Likewise, Government Code § 821.6 does not shield officers from claims arising out of illegal searches or warrantless raids, as it applies only to the initiation of judicial proceedings. *See Blankenhorn v. City of Orange*, 485 F.3d 463, 488 (9th Cir. 2007); *see* § 821.6 immunity discussion below.

In short, Plaintiffs' allegations support liability under California's statutory tort framework. Defendants' argument that no private right of action exists under Article I, Section 13 is irrelevant where, as here, Plaintiffs proceed under established principles of tort liability codified in Government Code §§ 815.2 and 820. Defendants' reliance on *Katzberg* to dismiss a statutory cause of action is misplaced. Because Plaintiffs have pled a valid statutory basis for redressing unreasonable searches and seizures under Article I, Section 13, the Fourth Claim should remain in the case.

III. THE COUNTY IS A PROPER DEFENDANT AS TO PLAINTIFFS' THIRD AND SEVENTH CLAIMS

The Complaint plausibly alleges that the County has engaged—and continues to engage—in a pattern and practice of unlawful enforcement actions targeting Indians on the Reservation. Contrary to Defendants' claim that it cannot be held liable under respondeat superior liability (Motion at 11), the County's actions, carried out with deliberate indifference to Plaintiffs'

constitutional rights and with the County's knowing acquiescence, are sufficient to state a claim under *Monell v. Department of Social Services*, 436 U.S. 658 (1978).

A municipality is subject to *Monell* liability in three circumstances: (1) "when implementation of its official policies or established customs inflicts the constitutional injury," (2) for "acts or 'omission[s]' ... [that] amount to the local government's own official policy," or (3) when the "final policy-making authority ratified a subordinate's unconstitutional decision or action and the basis for it." *Clouthier v. Cnty. of Contra Costa*, 591 F.3d 1232, 1249-50 (9th Cir. 2010) (internal citations omitted), *overruled in part on other grounds by Castro v. Cnty. of Los Angeles*, 833 F.3d 1060, 1070 (9th Cir. 2016).

Here, Plaintiffs allege that Sheriff Kendall, acting as the County's final policymaker, implemented and maintained unconstitutional policies and practices. *See* Compl. ¶¶ 55-58, 61-62 (Doc. 1). These are sufficient to survive dismissal. *See Shaw v. State of California Dep't of Alcoholic Beverage Control*, 788 F.2d 600, 610 (9th Cir. 1986) (plaintiff need not specifically allege a custom or a policy if it can be inferred from the complaint), *superseded by statute on other grounds as stated in Seater v. Cal. State Univ.*, No. 93-56688, 1995 U.S. App. LEXIS 3652 (9th Cir. Feb. 22, 1995); *Shah v. Los Angeles County*, 797 F.2d 743 (9th Cir. 1986) (claim cannot be dismissed at pleading stage if it is based on bare allegations that officers acted pursuant to an official policy, custom, or practice); *Powe v. City of Chicago*, 664 F.2d 639, 651 (7th Cir. 1981) (officers' repeated failure to issue adequate warrants that led to plaintiff's unlawful arrests was systemic in nature and sufficient to defeat Defendants' Motion to Dismiss with respect to municipal liability).

The Complaint details a pattern and practice of enforcement actions by the Sheriff's Office on Reservation trust lands, including: (1) procuring search warrants based on incomplete or false information; (2) repeated raids on cannabis cultivation sites operating under tribal law; (3) enforcing state regulatory schemes—such as environmental laws—despite their inapplicability on the Reservation under *Cabazon*, 480 U.S. at 202;[3] and (4) threats of future prosecution. Compl. ¶¶ 5, 32, 34, 55-58, 61-62 (Doc. 1). California's cannabis laws are regulatory, not prohibitory, and thus

[3] *See Santa Rosa Band*, 532 F.2d at 655 (held that Kings County was without jurisdiction to enforce its zoning ordinance or building code on Indian reservation trust lands, and that P.L. 280 did not grant the county jurisdiction to do so); *Cty. of Humboldt*, 615 F.2d at 1261 (same).

unenforceable on Reservation trust lands under Public Law 280. Compl. ¶¶ 5,32, 34 (Doc. 1); *Id.*; *see McMahon,* at 1076; *see also United States v. E.C. Investments, Inc.*, 77 F.3d 327, 330-31 (9th Cir. 1996) (holding that California lacked jurisdiction to prosecute alleged violations of state gambling laws by means of Class III gaming conduct). Sheriff Kendall's enforcement of such laws on Reservation lands exceeds his jurisdiction and violates federal law.

Sheriff Kendall admitted to executing 18 search warrants on Reservation properties because they "were not county or state licensed and/or appeared to also have environmental impact crimes taking place." Compl., ¶ 58, Ex. G (Doc. 1 at 83). This policy has subjected Plaintiffs and similarly situated tribal members to repeated raids for complying with tribal—not state—law. A nearly identical raid occurred on Gary Cordova's property in 2022, where the affidavit cited a lack of a state cannabis permit as the sole basis for probable cause. *See* Compl. ¶ 56, Ex. F (Doc. 1 at 75-76).

These actions, in addition to similar raids described in press releases (Compl. ¶¶ 57-58), reflect a sustained policy of enforcing state law on Reservation lands in violation of federal law and tribal sovereignty. The County's liability does not require direct involvement in the constitutional violation. *See Hansen v. Black*, 885 F.2d 642, 646 (9th Cir. 1989) (holding that liability may exist "even without overt personal participation in the offensive act"). A policy, practice, or custom under *Monell* "may be found either in an affirmative proclamation of policy or in the failure of an official to take any remedial steps after the violations. *Gomez v. Vernon*, 255 F.3d 1118, 1127 (9th Cir. 2001) (internal quotation marks omitted). Thus, even in the absence of an express policy, the County's unconstitutional custom or practice "can be inferred from widespread practices or evidence of repeated constitutional violations for which the errant municipal officers were not discharged or reprimanded." *Hunter v. Cty. of Sacramento*, 652 F.3d 1225, 1233 (9th Cir. 2011).

The Complaint plausibly alleges that the County knew of these unconstitutional practices and acquiesced. *See Velazquez v. City of Long Beach*, 793 F.3d 1010, 1028 (9th Cir. 2015) (citation omitted). "When a county continues to turn a blind eye to severe violations of [a party's] constitutional rights—despite having received notice of such violations—a rational fact finder may properly infer the existence of a previous policy or custom of deliberate indifference." *Henry v. County of Shasta*, 132 F.3d 512, 519 (9th Cir. 1997); *see also Menotti v. City of Seattle*, 409 F.3d

1113, 1147 (9th Cir. 2005). The County, acting through its Board of Supervisors, was aware of Sheriff Kendall's raids on Reservation properties and failed to intervene or discipline him. *Hunter*, 652 F.3d at 1234 ("evidence of inaction-specifically, failure to investigate and discipline employees in the face of widespread constitutional violations-can [nonetheless] support an inference that an unconstitutional custom or practice has been unofficially adopted by a municipality."); *Velazquez*, 793 F.3d at 1027 ("Evidence of 'identical incidents' to that alleged by the plaintiff" because identical incidents may tend to "establish that a municipality was put on notice of its agents' unconstitutional actions.") (citing *Henry v. Cnty. of Shasta*, 132 F.3d 512, 518-21 (9th Cir. 1997)). The County's inaction in the face of repeated, well-documented violations supports a reasonable inference of an unconstitutional custom or policy.

Accordingly, the Complaint alleges a clear and ongoing policy of unconstitutional enforcement on Reservation lands, carried out by a final policymaker and ratified by the County. These allegations are more than sufficient to state a *Monell* claim—or, at minimum, warrant leave to amend.

IV. THE NINTH CIRCUIT'S REDUNDANCY DOCTRINE IS PERMISSIVE AND DOES NOT BAR OFFICIAL-CAPACITY CLAIMS THAT ALONE PROVIDE PROSPECTIVE RELIEF

Defendants ask this Court to dismiss Plaintiffs' § 1983 official-capacity claims against Sheriff Kendall as redundant. Motion at 13. Defendants' request misconstrues Ninth Circuit law and ignores controlling authority. Because Kendall is sued in both his individual and official capacities, and because only his official-capacity claims can secure injunctive and declaratory relief against ongoing Mendocino County Sheriff's Office policy, Defendants' motion to dismiss claims Three and Seven as to Sheriff Kendall in his official capacity must be denied.

Ninth Circuit law authorizes, but does not require, dismissal of truly duplicative official-capacity claims. Defendants' reliance on *Center for Bio-Ethical Reform, Inc. v. Los Angeles County Sheriff Dep't*, 533 F.3d 780 (9th Cir. 2008) is misplaced. In *Bio-Ethical Reform*, the Ninth Circuit held that "when both a municipal officer and a local government entity are named, and the officer is named *only* in an official capacity, the court *may* dismiss the officer as a redundant defendant." *Id*. at 799 (emphasis added) (citing *Busby v. City of Orlando*, 931 F.2d 764, 776 (11th Cir. 1991)).

That language is discretionary, not mandatory. Nothing in *Bio-Ethical Reform* compels dismissal; it simply authorizes courts to avoid jury confusion in narrower circumstances than exist here. *See Scarano v. Cnty. of Stanislaus*, 2:25-cv-00099-DJC-CKD *5-6 (E.D. Cal. Jun 20, 2025) (court rejected redundancy where both a county and its sheriff's department were sued under § 1983).

Bio-Ethical Reform is distinguishable on the facts and inapplicable here. There, plaintiffs sued the County and the Sheriff's Department—and sued Sheriff Baca only in his official capacity. 533 F.3d at 799. Here, Plaintiffs sue Sheriff Kendall in both his individual and official capacities, and name the County of Mendocino (under *Monell*), but not the Mendocino County Sheriff's Office. There is no risk of conflating the Sheriff with a separate Sheriff's Office defendant. *See Sinclair v. San Jose Unified School District Board*, No. 20-CV-02798-LHK, 2021 U.S. Dist. LEXIS 130648, at *19-20 (N.D. Cal. July 13, 2021) (distinguishing *Bio-Ethical Reform* because only the District's officials are named in their personal and official capacities but not a local government entity).

In *Bio-Ethical Reform*, plaintiffs challenged the Sheriff's single act of enforcement of California Penal Code § 626.8. Here, Plaintiffs allege a continuing policy, practice and custom—warrantless raids of Reservation lands and Plaintiffs' properties—that Sheriff Kendall adopted and enforces as the Sheriff's policymaker. *See* Compl. at ¶¶ 1-2, 38-62 (Doc. 1). Sheriff Kendall established these policies and he has vowed to continue them, placing Plaintiffs at imminent risk of future raids and prosecution. *See* Compl., ¶ 58, Ex. G (Doc. 1 at 83) ("Let me be clear about this, we will **continue** to investigate these crimes and will **continue** to charge the violators . . . and work towards safety in our rural areas."). (Emphasis added). Only an official-capacity suit against Kendall can enjoin these continuing violations.

Mendiola-Martinez v. Arpaio, 836 F.3d 1239, 1250 (9th Cir. 2016) and *Kentucky v. Graham*, 473 U.S. 159 (1985) do not mandate dismissal here. Neither case addresses the redundancy doctrine or purports to strip courts of their discretion under *Bio-Ethical Reform*. Instead, they simply confirm that an official-capacity suit "is, in all respects other than name, to be treated as a suit against the entity" (473 U.S. at 166) for *liability* purposes—a principle wholly compatible with retaining the official-capacity claim where, as here, the County cannot itself modify or enjoin

the Sheriff's ongoing policy. In *Mendiola-Martinez*, the Ninth Circuit refused to dismiss Sheriff Arpaio's official-capacity claims as redundant and proceeded to deny him qualified immunity on those very claims. 836 F.3d 1239, 1250. By declining to treat Arpaio's official-capacity suit as a nullity—even though it duplicated a *Monell* claim against Maricopa County—the court reiterated that redundancy rulings are discretionary and not automatic.

Similarly, *Graham* underscores, but does not foreclose, courts' discretion to retain non-duplicative official-capacity claims. Defendants cite *Graham*, 473 U.S. at 165–66, for the unremarkable proposition that an official-capacity suit is a suit against the entity. Motion at 13 (Doc. 20). This principle simply confirms that Plaintiffs' claims against Kendall in his official capacity stand or fall with the County's liability—yet it says nothing about stripping courts of the discretion *Bio-Ethical Reform* affords them to retain a claim when, as here, naming the officer in his official capacity can secure prospective relief.

The Plaintiffs cannot obtain complete relief for their Third and Seventh claims unless Sheriff Kendall is a party in his official capacity[4] because the County cannot provide the necessary prospective relief. His dismissal would leave Plaintiffs without recourse to prevent future unconstitutional raids. *See Sinclair*, 2021 U.S. Dist. LEXIS 130648, at *19-20 (court applied *Bio-Ethical Reform's* permissive language to reject a redundancy argument). Because the sole path to prospective relief against ongoing, unlawful raids runs through Sheriff Kendall's official office, Defendants' motion to dismiss Claims Three and Seven as to Kendall in his official capacity must be denied.

V. THE FIFTH AND SIXTH CAUSES OF ACTION ARE PROPERLY PLEADED AGAINST SHERIFF KENDALL IN HIS INDIVIDUAL CAPACITY

Defendants contend that the Bane Act and negligence claims (Fifth and Sixth Causes of Action) should be dismissed as to Sheriff Kendall individually for want of detailed factual allegations of his personal involvement. Motion at 14-15 (Doc. 20). This contention misapprehends the liberal notice-pleading standard and ignores the Complaint's well-pled allegations, which, taken

[4] Sheriff Kendall is a governmental official independently elected by the voters of Mendocino County. As such, he establishes policy for and conducts the day-to-day business of the Mendocino County Sheriff's office separate and apart from the Mendocino County Board of Supervisors.

as true, plausibly establish Sheriff Kendall's individual liability. Under the Federal Rules of Civil Procedure, Rule 8(a)(2), a complaint need only provide "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). It does not require detailed factual allegations but only enough factual content to allow the court to draw a reasonable inference of liability. *Iqbal*, 556 U.S. at 678 (quotation marks omitted) (quoting *Twombly*, 550 U.S. at 555).

Here, the Complaint easily meets this standard. It names Sheriff Kendall, identifies him as the official responsible for the raid, and alleges that he publicly endorsed the operation and pledged to continue similar actions. Compl. ¶¶ 2, 84 (Doc. 1). It further alleges that his negligence contributed to the destruction of Plaintiffs' property and violation of their rights. Compl. ¶ 105 (Doc. 1). These allegations, combined with the detailed description of the unlawful raid carried out by deputies under Sheriff Kendall's authority, plausibly support his individual liability as a direct participant or as one deliberately indifferent to the constitutional violations. That is more than sufficient to satisfy Rule 8 and *Twombly/Iqbal*. Sheriff Kendall has fair notice of the claims against him and the factual basis for those claims. Nothing more is needed to survive a 12(b)(6) motion.

Defendants' invocation of California Government Code § 951 is misplaced. § 951—a state procedural rule requiring particularized allegations against public officials sued in their individual capacity—has no bearing in federal court. Federal pleading standards are governed by the Federal Rules of Civil Procedure, not state procedural requirements. *See* Fed. R. Civ. P. 8(a); *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1103 (9th Cir. 2003). Federal courts do not import state-specific fact-pleading or verification rules when evaluating motions to dismiss. Unless a federal rule expressly requires heightened pleading—which neither Rule 9 nor any other rule does for Bane Act or negligence claims—Rule 8's notice-pleading standard controls.

Even if § 951 is treated as substantive, Plaintiffs have satisfied its core requirement. The Complaint alleges that Sheriff Kendall was not a passive observer but an active participant in, or policymaker behind, the unlawful raids. It plausibly links him to the searches, seizures, and destruction of property, either through direct involvement, supervisory authority, or deliberate indifference. These allegations are more than sufficient under federal law. Defendants cannot

impose a state-law pleading hurdle in a federal forum. The claims against Sheriff Kendall must be evaluated under Rule 8 and the *Twombly/Iqbal* standard—which, as shown, are clearly met.

Defendants' reliance on California Government Code § 820.8 is equally unavailing. That provision simply codifies the rule against vicarious liability for public employees—it bars liability for injuries caused solely by another's conduct. But Plaintiffs do not seek to hold Sheriff Kendall liable under a respondeat superior theory. Rather, the Complaint alleges direct liability based on his own acts and omissions. Plaintiffs contend that Sheriff Kendall personally authorized, directed, or knowingly permitted the unlawful raid, and that his willful intentional act and negligence contributed to the resulting constitutional and statutory violations. Compl. ¶¶ 84, 96, 105 (Doc. 1). These allegations are sufficient to state a claim for personal involvement, which § 820.8 does not preclude. *Milton v. Nelson*, 527 F.2d 1158, 1159 (9th Cir. 1975), cited by Defendants, is unhelpful to their argument, where there is no liability if "personal involvement is not alleged." Motion at 14 (Doc. 20); *id*. Here, personal involvement *is* alleged through Sheriff Kendall's own actions and omissions, which is enough to state a claim under both the Bane Act and negligence.

Defendants also argue that the Bane Act claim fails because the Complaint does not allege that Sheriff Kendall personally used "threats, intimidation, or coercion." Motion at 15 (Doc. 20); *see* Civ. Code § 52.1. But this misstates the law. The Bane Act imposes liability on any person who, by those means, interferes with constitutional or statutory rights—whether directly or through coordinated action. Plaintiffs allege that Defendants, including Sheriff Kendall, orchestrated and executed a militarized raid that involved armed officers surrounding homes, ignoring jurisdictional objections, and causing Plaintiffs to fear harm and arrest. *See* Compl. ¶¶ 96–98 (Doc. 1). These allegations describe coercive conduct sufficient to support a Bane Act claim. And while Kendall may not have personally drawn a weapon, the statute does not require it. Those who plan, authorize, or direct coercive operations can be held liable just as surely as those who carry them out. *See id*.; *see also* Compl. ¶ 96 (Doc. 1) (alleging that the violations occurred "through" Kendall and others). At the pleading stage, it is more than plausible to infer that Sheriff Kendall, as the lead policymaker and public face of the operation, was a driving force behind the raid and its coercive impact.

Defendants' invocation of California Government Code § 821.6 to defeat the negligence claim fares no better. That provision provides immunity for injuries caused by the institution or prosecution of judicial or administrative proceedings—but it does not extend to investigatory conduct or pre-litigation law enforcement activity. The California Supreme Court recently confirmed this in *Leon v. County of Riverside*, 530 P.3d 1093, 1101 (Cal. 2023), holding that § 821.6 does not shield officers from liability for tortious conduct during investigations or other activities prior to the institution of formal proceedings, and immunity under § 821.6 is confined to malicious-prosecution-type claims. *See also Garmon v. Cnty. of L.A.*, 828 F.3d 837, 847 (9th Cir. 2016). Plaintiffs' negligence claim arises from the execution of a raid—an investigatory act—not from the initiation of a judicial proceeding. Thus, § 821.6 does not apply.

Even if it did, dismissal would still be improper at this stage. Immunity under § 821.6 is an affirmative defense, and courts do not resolve fact-intensive defenses on a Rule 12(b)(6) motion unless the Complaint conclusively establishes every element. Here, Plaintiffs allege that the raid was unlawful, unauthorized, and outside the scope of any valid judicial process. Compl. ¶¶ 32–37, 74–76, 80–83 (Doc. 1). Accepting these allegations as true, as the Court must, Sheriff Kendall is not entitled to immunity under § 821.6

In sum, Plaintiffs have adequately pleaded both the Bane Act and negligence claims against Sheriff Kendall in his individual capacity. The Complaint gives Sheriff Kendall fair notice of the claims and the factual grounds supporting them. At this early stage, Plaintiffs are not required to detail every aspect of Kendall's involvement—particularly where key facts are likely within Defendants' exclusive control. The allegations plausibly suggest that Sheriff Kendall played a central role in the raid and its consequences. That is all Rule 8 requires. *See Twombly*, 550 U.S. at 570. If the Court finds any technical deficiency, the appropriate remedy is leave to amend—not dismissal. But no amendment is necessary here. The Complaint satisfies the governing standard, and the motion to dismiss the Fifth and Sixth Causes of Action against Sheriff Kendall should be denied.

VI. PLAINTIFFS HAVE SATISFIED THE CALIFORNIA TORT CLAIMS ACT, AND ANY PLEADING DEFICIENCY IS CURABLE

Defendants also seek dismissal of Plaintiffs' Fifth and Sixth Causes of Action on the ground that the Complaint does not expressly plead compliance with the CTCA. Motion at 16 (Doc. 20). This argument fails both legally and factually.

Under the CTCA, a plaintiff seeking money damages from a public entity or official must first present a timely written claim to the entity and have it rejected (or deemed rejected) before filing suit. Gov't Code §§ 810, 945.4. The California Supreme Court has held that a complaint must allege either compliance with this requirement or a valid excuse for noncompliance. *State v. Superior Court (Bodde)*, 32 Cal. 4th 1234, 1243-44 (2004). However, this is a pleading requirement—not a jurisdictional bar—and it is governed by federal procedural rules in federal court.

Here, Plaintiffs did in fact comply with the CTCA, and the Complaint gives sufficient notice of that compliance. They submitted timely written claims to Mendocino County within six months of the July 2024 raids. Compl. ¶ 8 (Doc. 1). Those claims were filed in December 2024 and were rejected (or deemed rejected by lapse of time) by early 2025. Compl. ¶ 9(d) (Doc. 1). By the time the Complaint was filed in April 2025, the statutory prerequisites for litigation had been satisfied. Defendants were on notice of the claims and suffered no prejudice. The CTCA's purpose—early notice and an opportunity to resolve disputes pre-litigation—was fully served.

Even if the Complaint does not spell out every detail, it adequately pleads compliance under federal standards. The Complaint references the CTCA by name, cites the relevant code provisions, and seeks damages "under the California Tort Claims Act." Compl. ¶ 99; Prayer ¶ ii (Doc. 1). These references, read in context, permit the reasonable inference that Plaintiffs satisfied the claim-filing requirement. That is all Rule 8 and Rule 9(c) require. *See* Fed. R. Civ. P. 9(c) ("[I]t suffices to allege generally that all conditions precedent have occurred or been performed."). Federal courts do not require plaintiffs to plead the date, content, or outcome of a government claim unless the claim itself is at issue.

To the extent the Court finds the Complaint technically deficient, the proper remedy is leave to amend—not dismissal. California courts treat failure to plead CTCA compliance as an amendable defect. *Bodde*, 32 Cal. 4th at 1243–44. Federal courts applying California law follow the same rule.

See Ramirez v. Cnty. of San Bernardino, 806 F.3d 1002, 1008–09 (9th Cir. 2015); *Robinson v. Alameda Cnty.*, 875 F. Supp. 2d 1029, 1043–44 (N.D. Cal. 2012). Plaintiffs can easily amend to include a single sentence confirming what is already true: that they filed timely claims and received rejections before suing.

Plaintiffs complied with the CTCA, and the Complaint gives fair notice of that compliance. Dismissing their state-law claims on this basis would elevate form over substance and contravene both California and federal pleading principles. Defendants' motion to dismiss the Fifth and Sixth Causes of Action on CTCA grounds should be denied.

VII. THE SIXTH CAUSE OF ACTION PLEADS A VALID STATUTORY BASIS FOR PUBLIC ENTITY LIABILITY

Defendants request to dismiss the Sixth Cause of Action for negligence as to Mendocino County and Sheriff Kendall is legally and factually indefensible and should therefore be denied.

Under the CTCA, public entities enjoy tort immunity "except as otherwise provided by statute." Gov't Code § 815(a). Section 815.2(a) then carves out respondeat-superior liability, making a public entity vicariously liable for the negligent acts of its employees committed within the scope of employment. The Complaint expressly invokes § 815.2 as the sole statutory hook for the County's negligence liability:

- In the Fifth Cause of Action heading, Plaintiffs cite Cal. Gov't Code § 815.2 alongside the CTCA.
- The Sixth Cause of Action incorporates by reference all preceding allegations, including the express § 815.2 citation.
- Paragraph 107 unambiguously alleges that "The Counties of Mendocino and Humboldt . . . are vicariously liable for the actions of the Defendant deputies and officers."

Compl. ¶¶ 95, 105, 107 (Doc. 1). These allegations satisfy the requirement articulated in *Searcy v. Hemet Unified School District*, 177 Cal.App.3d 792, 802 (1986), to plead "every fact essential to the existence of statutory liability." Plaintiffs notice statutory vicarious liability (Compl. ¶¶ 95, 105), then reiterate the County's vicarious liability (Compl. ¶ 107) (Doc. 1).

Defendants contend that Plaintiffs must recite every element of § 815.2 in the negligence claim itself. But under Rule 8(a), a complaint need only provide "a short and plain statement of the claim showing that the pleader is entitled to relief." *Johnson v. City of Shelby*, 574 U.S. 10, 11 (2014) (per curiam). Federal notice pleading does not demand hyper-technical recitations of statutory subparts. Here, the Complaint's factual allegations—unauthorized raid, property destruction, deputies acting within the scope of employment—paired with Plaintiffs' clear invocation of § 815.2, amply "nudge" the negligence claim across the plausibility threshold.

Defendants contend that "every fact material to the existence of [the] statutory liability must be pleaded with particularity," citing *Peter W. v. SF Unified Sch. Dist*., 60 Cal. App. 3d 814, 819 (1976). Motion at 17 (Doc. 20). But *Peter W.* enforced California's fact-pleading rules in state court—rules that federal practice has superseded. Nothing in California law requires that § 815.2's elements be re-stated at length when the statute is expressly cited and its operative facts are alleged. Even under *Peter W*., Plaintiffs have pleaded all material facts: they identified § 815.2 as the basis for liability; they alleged deputies acted within the scope of their employment (Compl. ¶ 72); and they tied the County's liability directly to those tortious acts (Compl. ¶¶ 97–100). In short, Defendants' insistence on a rote, heightened recitation conflicts with both federal notice pleading and the Complaint's express allegations.

Suing Sheriff Kendall in his official capacity is functionally equivalent to suing the County itself. *Ky. v. Graham*, 473 U.S. 159, 165–66 (1985) ("Official-capacity suits, in contrast, 'generally represent only another way of pleading an action against an entity of which an officer is an agent."). The official-capacity negligence claim against Sheriff Kendall is, in effect, a claim against the County and it relies on § 815.2. The Complaint alleges that Sheriff Kendall acted within his official duties at all relevant times (Complaint ¶ 8), thereby invoking the identical § 815.2 vicarious liability framework.

For these reasons, Plaintiffs have pled a valid statutory basis for negligence against both the County and Sheriff Kendall (official capacity). Defendants' motion to dismiss the Sixth Cause of Action should be denied in its entirety.

CONCLUSION

For the foregoing reasons, the Court should deny the Defendants' motion to dismiss in its entirety. In the alternative, Plaintiffs seek and should be granted leave to amend their complaint if the court holds that any part of Defendants' 12(b) motion to dismiss has any merit.

DATED: July 11, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I am employed in the County of Mendocino, State of California. I am over the age of 18 years and not a party to the within action; my business address is that of Rapport & Marston, 405 West Perkins Street, Ukiah, California 95482.

I hereby certify that I electronically filed the foregoing:

PLAINTIFFS' OPPOSITION TO DEFENDANTS' KENDALL AND MENDOCINO COUNTY'S MOTION TO DISMISS COMPLAINT

with the Clerk of the United States District Court for the Northern District of California by using the CM/ECF system on June 14, 2025, which generated and transmitted a notice of electronic filing to CM/ECF registrants.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct; executed on June 14, 2025, at Ukiah, California.

/s/ Ericka Duncan
ERICKA DUNCAN