UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MEGAN WHITE, JERONIMO AGUILAR, LOREN WAYNE KIDD, LYRIC NASH, NICOLLETTE JONES, and ODETTE ZAPATA,

Plaintiffs,

v.

SACRAMENTO POLICE DEPARTMENT; THE CITY OF SACRAMENTO; DANIEL HAHN; and DOES 1-200,

Defendants.

No. 2:21-cv-02211-JAM-DB

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION TO DISMISS; DENYING DEFENDANTS' MOTION TO STRIKE; AND DENYING DEFENDANTS' MOTION FOR A MORE DEFINITE STATEMENT

I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND[1]

Megan White, Jeronimo Aguilar, Loren Wayne Kidd, Lyric Nash, Nicollette Jones, and Odette Zapata ("Plaintiffs") filed a First Amended Complaint, asserting eleven claims against the Sacramento Police Department ("SPD"), the City of Sacramento, and SPD Chief Daniel Hahn for their response to a series of racial justice demonstrations between March 2020 and November 2021. See First

[1] This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for April 19, 2022.

Am. Compl. ("FAC"), ECF No. 4. Plaintiffs are six individuals who attended these demonstrations. Id.

Megan White, a 34-year-old black woman, alleges that she observed racial justice protests and attempted to provide basic first aid to protest participants in 2020 and 2021, during which the SPD injured her. Id. ¶ 17. Specifically, she suffered bruising, chronic knee pain and hip pain, chemical burns, and a severe shoulder injury. Id. She also observed law enforcement restrain and assault racial justice protesters. Id. She alleges compliance with the Government Claims Act. Id.

Jeronimo Aguilar, a 29-year-old Chicano man, alleges that he attended protests in May and June 2020 and, as a result, SPD officers targeted him, surveilled him, and illegally raided his home. Id. ¶ 18. He does not allege compliance with the Government Claims Act. Id.

Loren Kidd, a 34-year-old white man, alleges he attended protests between May 2020 and January 2021, where the SPD shot him with impact munitions and shoved him into and over parked cars. Id. ¶ 19. He further alleges the SPD failed to accommodate his disability when he was arrested, and watched as white supremacist groups attacked him without intervening. Id. He alleges compliance with the Government Claims Act. Id.

Lyric Nash, a 21-year-old biracial woman, alleges that she attended racial justice protests between May 2020 and February 2021, and that the SPD targeted her with verbal harassment and threats. Id. ¶ 20. She alleges SPD officers also routinely bull-rushed her and other protestors, and indiscriminately fired pepper balls, foam-tipped bullets, and beanbag rounds into

crowds. Id. She did not allege compliance with the Government Claims Act. Id.

Nicollette Jones, a 34-year-old woman of Punjabi Asian and European descent, alleges that she participated in racial justice protests from May 2020 to January 2021. Id. ¶ 21. She alleges the SPD knows her by name and regularly targets her at protests. Id. In May 2020, the SPD kicked an active teargas canister toward her and shot impact munitions into her body least 11 times. Id. She did not allege compliance with the Government Claims Act. Id.

Odette Zapata, a 29-year-old Latinx woman, alleges she attended multiple protests and witnessed law enforcement's pattern of violent escalation against protesters, while permitting white supremacists to use violence against community members. Id. ¶ 22. She has since been the target of aerial surveillance and visits to her home. Id. She did not allege compliance with the Government Claims Act. Id.

In response to these events, White filed the initial complaint on November 30, 2021. See Compl., ECF No. 1. On December 30, 2021, the FAC – which added the five additional plaintiffs - was filed. See FAC. Of the eleven claims in the FAC, all Plaintiffs assert the first ten claims against all Defendants, while only Kidd brings the eleventh claim under the American Disabilities Act ("ADA"). Id. Through this action, Plaintiffs seek to "vindicate the rights of Californians protesting against racism, white supremacy, and police violence in Sacramento, California." Id. ¶ 1. They claim the "City of Sacramento and its Police Department have conditioned the public

to fear the violent and targeted force of the state when attending a protest, a demonstration or even a vigil for racial justice." Id. Accordingly, they seek compensatory relief and injunctive relief to "stop the City of Sacramento and its Police Department from continuing to employ discriminatory, violent tactics against protesters." Id.

Before the Court is the City of Sacramento and Daniel Hahn's ("Defendants") motion to dismiss, motion to strike, and motion for a more definite statement.[2] See Mot., ECF No. 14-1. Plaintiffs filed an opposition. See Opp'n, ECF No. 17. Defendants replied. See Reply, ECF No. 20. For the reasons set forth below, the Court grants in part and denies in part Defendants' motion to dismiss, denies Defendants' motion to strike, and denies Defendants' motion for a more definite statement.

II. OPINION

A. Legal Standard

Federal Rule of Civil Procedure 8 requires "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Dismissal is appropriate under Federal Rule of Civil Procedure 12(b)(6) when a plaintiff's allegations fail "to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). "To survive a motion to dismiss [under 12(b)(6)], a complaint must contain sufficient factual matter, accepted as true, to state a claim

[2] Daniel Hahn is now retired but was the Sacramento Police Chief at all material times. FAC ¶ 25; see also Mot. at 6.

for relief that is plausible on its face." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). While "detailed factual allegations" are unnecessary, the complaint must allege more than "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements." Id. At this stage, the Court "must take all of the factual allegations in the complaint as true." Id. But it need not "accept as true a legal conclusion couched as a factual allegation." Id. "In sum, for a complaint to survive a motion to dismiss, the non-conclusory 'factual content,' and reasonable inferences from that content, must be plausibly suggestive of a claim entitling the plaintiff to relief." Moss v. U.S. Secret Serv., 572 F.3d 962, 969 (9th Cir. 2009).

B. Analysis: Motion to Dismiss

1. State Law Claims

Defendants first move to dismiss Plaintiffs' seventh, eighth, ninth, and tenth claims under state law for failure to comply with the claims filing requirements set forth in the Government Claims Act. Mot. at 8-10.

Plaintiffs must allege either they "complied with the claims presentation requirement, or that a recognized exception or excuse for noncompliance exists," and if plaintiffs fail to include those necessary allegations, their claims are subject to dismissal. Gong v. City of Rosemead, 226 Cal.App.4th 363, 374 (2014); see also Karim-Panahi v. Los Angeles Police Dept., 839 F.2d 621, 627 (9th Cir. 1988)(affirming the district court's dismissal of state law claims for failure to allege compliance). As to timing, plaintiffs must present a claim relating to a cause

of action for personal injury no later than six months after accrual of the cause of action. See Cal. Gov. Code § 911.2. When a plaintiff fails to present a claim within the six-month timeframe, a written application may be made to the public entity for leave to present the claim within a reasonable time not to exceed one year from the accrual of the cause of action. Id. § 911.4.

For these state law claims, which all six Plaintiffs bring, Defendants contend only two of the Plaintiffs, White and Kidd, properly alleged compliance with the Government Claims Act. Mot. at 10. Because the remaining four Plaintiffs, Aguilar, Nash, Jones, and Zapata, failed to allege compliance, Defendants argue the seventh, eighth, ninth and tenth claims against them must be dismissed. Id.

In opposition, Plaintiffs concede: "The City is correct that Plaintiffs Jones, Nash, and Zapata cannot bring state law claims because they did not comply with the Government Claims Act. . . Plaintiffs do not oppose the dismissal of state law claims for damages made by Ms. Jones, Ms. Nash, and Ms. Zapata." Opp'n at 7-8. However, Plaintiffs argue Aguilar may bring the state law claims because although he did not allege compliance with the Government Claims Act in the FAC, he did in fact comply and therefore could plead compliance if granted leave to amend. Id. Insisting the Court is bound by allegations in the FAC and cannot consider Plaintiffs' exhibits in opposition, Defendants counter that Aguilar's claims are barred as untimely because he did not submit his claims within six months and did not seek leave to bring a late claim. Reply at 3. But failure to allege

compliance with the Government Claims Act "merely subject[s]" a claim to a motion to dismiss; the Court "has discretion to dismiss with leave to amend to obtain compliance with the [Government Claims Act], unless it 'could not possibly be cured by the allegation of other facts.'" Robinson v. Alameda Cty., 875 F.Supp.2d 1029, 1044 (N.D. Cal. 2012). Here, it is not clear that Aguilar "could not possibly cure" this defect. Id. Therefore, the Court dismisses his state law claims for failure to plead compliance, but grants leave to amend. If he elects to amend, Aguilar must clearly indicate how his claims were timely filed and thus not time-barred. See Reply at 3.

In sum, Jones, Nash, and Zapata's state law claims are dismissed with prejudice, while Aguilar's state law claims are dismissed without prejudice.

2. Shotgun Pleading

Defendants next argue that Plaintiffs' shotgun pleading violates Federal Rule of Civil Procedure 8. Mot. at 11. That Rule requires "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). "Shotgun pleadings are pleadings that overwhelm defendants with an unclear mass of allegations and make it difficult or impossible for defendants to make informed responses to the plaintiff's allegations. . . they are unacceptable." McLaughlin v. Castro, No. 1:17-cv-001597-DAD-MJS, 2018 WL 1726630, at *4 (E.D. Cal. Apr. 10, 2018). According to Defendants, the FAC is a shotgun pleading because: "[it] attempts to tie together separate and distinct fact patterns in support of eleven causes of action. The Plaintiffs had separate

interactions with SPD over the course of approximately 16 months. From the 43-page FAC it is nearly impossible to discern which allegations are conclusions or are merely grievances with SPD, rather than facts to support causes of action. The FAC is neither short nor plain. It is impossible for the Defendants to determine which factual allegations are intended to support the claims for relief." Mot. at 11. Plaintiffs counter that Defendants' argument is not well supported in law in that Defendants cite to an unpublished Eastern District of California decision and a non-binding Northern District of Georgia decision. Opp'n at 3-4. Plaintiffs also argue the FAC is not a shotgun pleading because it sets forth facts for each individual's claim and distinguishes between Defendants with specificity, including dates, locations, times, and names where known. Id. at 4 (citing to FAC ¶¶ 36-38, 41, 46, 49, 50, 52, 57-59, 62, 86, 92, 95, 96, 98-101, 111, 129, 134, 141, 167, 170-172). Additionally, the FAC details the specific harm endured by each Plaintiff. Id. (citing to FAC ¶¶ 47, 50, 55, 60, 61, 66, 68, 76-77, 84-85, 86, 89, 92, 96, 106, 114-115, 117-122). Plaintiffs point out the FAC includes headings and subheadings to demarcate incidents giving rise to the claims and their elements. Id. Finally, Plaintiffs argue the various dates and times spanning over the course of many months are not "overwhelming," as Defendants contend, but instead demonstrate a pattern of conduct over time. Id. at 5 (citing to FAC ¶¶ 123-124, 130, 132, 163, 165-167).

In response, Defendants double down on their argument that the FAC is a shotgun pleading which does not provide them fair notice. Reply at 4. A brief comparison to Defendants' cited

authority, McLaughlin, however, confirms the sufficiency of Plaintiffs' allegations here. See Mot. at 11. In McLaughlin, the court found the pro se complaint lumping multiple defendants together and failing to identify which facts supported particular claims to be a "prohibited 'shotgun pleading.'" 2018 WL 1726630 at *3-4. The Court agrees with Plaintiffs that the FAC here is a far cry from the pro se complaint in McLaughlin. Opp'n at 4. Nor do Defendants explain why they cannot get the details and specificity they claim they need through discovery.

Accordingly, Defendants' argument that the entire FAC should be dismissed as a shotgun pleading fails and Defendants' motion to dismiss the FAC for this reason is denied.

3. Nash and Zapata's Section 1983 Claims

Next, Defendants move to dismiss Nash and Zapata's Section 1983 claims - the first through fourth causes of action in the FAC – contending neither of these Plaintiffs state a plausible claim for violation of a federal right. Mot. at 11-13. Insisting the opposite, Plaintiffs dedicate a significant portion of their brief to marching through how Nash and Zapata have stated claims for violation of their First, Fourth, and Fourteenth Amendment rights. See Opp'n at 10-15.

a. First Amendment

Nash and Zapata's first and second Section 1983 claims are for retaliation and viewpoint discrimination in violation of the First Amendment. See FAC at 34-35. To state a First Amendment retaliation claim, Plaintiffs first must plausibly allege they were "engaged in a constitutionally protected activity." Index Newspapers LLC v. U.S. Marshals Serv., 977 F.3d 817, 827 (9th

Cir. 2020). "Activities such as demonstrations, protest marches, and picketing are clearly protected by the First Amendment." Collins v. Jordan, 110 F.3d 1363, 1371 (9th Cir. 1996)(internal citations omitted). Here, Nash and Zapata allege they attended racial justice protests. FAC ¶¶ 20, 22, 51, 61, 63. This plausibly alleges the first element of their retaliation claims: engagement in a constitutionally protected activity.

Next, Plaintiffs must allege "Defendants' actions would chill a person of ordinary firmness from continuing to engage in the protected activity," and that Plaintiffs' "protected activity was a substantial or motivating factor" in Defendants' conduct. Index Newspapers, 977 F.3d at 827. The use of indiscriminate force against protesters supports an inference that police officers' actions were substantially motivated by the plaintiff's protected First Amendment activity. NAACP of San Jose/Silicon Valley v. City of San Jose, Case No. 21-cv-1705-PJH, 2021 WL 4355339, at *11 (N.D. Cal. Sept. 24, 2021)("[G]iven that the protestors were specifically protesting police misconduct, it is reasonable to allege that the protestors' viewpoint was a substantial or motivating cause – even if not necessarily the sole cause – behind the defendants' conduct.").

As to Nash, she alleges she attended several protests in the City of Sacramento between May 2020 through February 2021 where SPD officers without warning or provocation "fir[ed] chemical agents, pepper balls, and beanbags indiscriminately into the crowds." FAC ¶¶ 61, 64. She alleges SPD officers surveilled her following the protests. Id. ¶¶ 102-106. While she was in a vehicle with other protesters, SPD officers stopped them and

mocked the calls for police accountability. Id. ¶ 104. As to Plaintiff Zapata, she similarly alleges the SPD surveilled her after she participated in protests; specifically, they came to her home without notice or a warrant after protests, followed her in marked police vehicles, and tracked her with aerial surveillance. Id. ¶¶ 22, 98-101. Like Nash, Zapata also witnessed SPD officers shoot impact munitions and tear gas into the crowd without provocation. Id. ¶¶ 53-55. According to Plaintiffs, "these allegations are robust, specific, and clearly sufficient to" give an inference to retaliation such that their First Amendment retaliation claims can survive the motion to dismiss. Opp'n at 11.

Likewise, they contend their First Amendment viewpoint discrimination claims pass muster. Id. at 12-13. To state a viewpoint discrimination claim, plaintiffs must again make the threshold showing they were engaged in a constitutionally protected activity. Giebel v. Sylvester, 244 F.3d 1182, 1186 (9th Cir. 2001). The act of protesting qualifies. Collins, 110 F.3d at 1371. Plaintiffs then must plausibly allege: (1) on its face, a government restriction on speech "distinguishes between types of speech or speakers based on viewpoint expressed, or (2) though neutral on its face, the regulation is motivated by a desire to suppress a particular viewpoint." Moss v. U.S. Secret Serv., 711 F.3d 941, 959 (9th Cir. 2013).

Here, Nash and Zapata allege they witnessed and experienced firsthand Defendants' use of indiscriminate force on racial justice protests. FAC ¶¶ 20, 22, 53-55, 61, 64, 104. By contrast, they witnessed the SPD treat white supremacist

protestors better, in some cases arresting victims of white supremacist violence instead of the white supremacist protestors. Id. ¶¶ 22, 81-82. They also allege Sacramento residents noticed the disparity in how police treated white supremacist protestors and racial justice protestors and called the City Council to attest to this disparity. Id. ¶ 128. According to Plaintiffs, these allegations support an inference that the Defendants were motivated by a desire to suppress their particular viewpoints. Opp'n at 13.

Significantly, Defendants did not respond to Plaintiffs' arguments as to why Nash and Zapata plausibly state First Amendment retaliation and viewpoint discrimination claims. See Reply; see also Resnick v. Hyundai Motor America, Inc., Case No. CV 16-00593-BRO (PJWx), 2017 WL 1531192, at *22, (C.D. Cal. Apr. 13, 2017) ("Failure to oppose an argument . . . constitutes waiver of that argument."). Accordingly, the Court denies Defendants' motion as to Nash and Zapata's First Amendment claims.

b. Fourth Amendment

Nash and Zapata contend they also plausibly stated claims that Defendants violated their Fourth Amendment rights to be free from unreasonable seizure and excessive force. Opp'n at 13-14.

"Determining whether the force used to effect a particular seizure is 'reasonable' under the Fourth Amendment requires a careful balancing of the 'nature and quality of the intrusion on the individual's Fourth Amendment interests' against the countervailing governmental interests at stake." Graham v. Connor, 490 U.S. 386, 396 (1989). "This balancing test entails

consideration of the totality of the facts and circumstances in the particular case." Blanford v. Sacramento Co., 406 F.3d 1110, 1115 (9th Cir. 2005) (citing Graham, 490 U.S. at 396). In Nelson v. City of Davis, the Ninth Circuit explained: "the use of pepper spray, and a failure to alleviate its effects, was an unreasonable application of force against individuals who were suspected of only minor criminal activity, offered only passive resistance, and posed little to no threat of harm to others." 685 F.3d 867, 885 (2012). Similarly here, Nash and Zapata point to the SPD's "intentional and indiscriminate use of chemical weapons and impact munitions" on them when neither posed a threat. FAC ¶¶ 55, 61. SPD officers also stopped Nash on January 20, 2021, approached her at gunpoint, and then searched and taunted her for her participation in a police accountability protest. Id. ¶ 104. According to Plaintiffs, these facts are sufficient to state excessive force claims. Opp'n at 13-14. Again, Defendants failed to respond to Plaintiffs' arguments. See Reply; see also Resnick, 2017 WL 1531192, at *22.

Accordingly, the Court denies Defendants' motion as to Nash and Zapata's Fourth Amendment claims.

c. Fourteenth Amendment

Finally, Nash and Zapata contend they plausibly alleged Defendants violated their Fourteenth Amendment Equal Protection rights. Opp'n at 14-15.

Under the Equal Protection Clause, the "government may not grant the use of a forum to people whose views it finds acceptable, but deny use to those wishing to express less favored or more controversial views . . . [a]nd it may not select which

issues are worth discussing or debating in public facilities." Police Dep't of City of Chicago v. Mosley, 408 U.S. 92, 96 (1972). Rather "there is an 'equality of status in the field of ideas,' and the government must afford all points of view an equal opportunity to be heard." Id. Any "exclusions from a public forum must be carefully scrutinized." Id. at 98-99. Additionally, the government has the burden of showing one group posed a greater safety risk to the public than the other, to justify unequal treatment. B & L Prods., Inc. v. 22nd Dist. Agric. Ass'n, 394 F.Supp.3d 1226, 1250 (S.D. Cal. 2019).

Here, Nash and Zapata allege Defendants did not treat all points of view equally and instead treated racial justice protests worse than "organized white supremacist groups or other protest groups generally." Opp'n at 15 (citing to FAC ¶¶ 22, 51-55, 61, 63-64, 81-82, 98-101, 102-106, 123-133). Yet, Defendants have not shown the racial justice protest groups posed a greater safety risk than other protest groups. Id.

Defendants did not respond to these arguments. See Reply see also Resnick, 2017 WL 1531192, at *22. Accordingly, the Court denies Defendants' motion as to Nash and Zapata's Fourteenth Amendment claims.

4. Conspiracy Claims

Lastly, Defendants move to dismiss Plaintiffs' fifth and sixth causes of action for conspiracy pursuant to 42 U.S.C 1985 and 42 U.S.C. 1986. Mot. at 13. In opposition, Plaintiffs concede they improperly pled their conspiracy claims as follows. Opp'n at 8-9. First, with respect to the fifth cause of action, they cited to "42 U.S.C § 1985 where 42 U.S.C § 1983 applies most

appropriately." Id. at 8. Second, with respect to the sixth cause of action, they cited to "U.S.C. § 1986, where 42 U.S.C. § 1983 applies more appropriately." Id. at 8 n.6. Plaintiffs request leave to amend to correct these mistakes, id. at 8 n.5, then proceed to argue that under Section 1983, they have plausibly stated their conspiracy claims, id. at 8-10. However, as Defendants argue, this "attempt to rewrite the FAC in the opposition is not proper." Reply at 3; see also Schneider v. Cal. Dep't of Corr., 151 F.3d 1194, 1197 n.1 (9th Cir. 1998) (recognizing a complaint cannot be amended through an opposition to a motion to dismiss).

PlaintiffS' fifth and sixth causes of action are dismissed without prejudice. See Eminence Cap., LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003)("Dismissal with prejudice and without leave to amend is not appropriate unless it is clear . . . that the complaint could not be saved by amendment.").

C. Analysis: Motion to Strike

Defendants additionally move to strike portions of the FAC as immaterial and impertinent. Mot. at 14. Specifically, they request the Court strike Paragraphs 1 through 10, Paragraphs 28 through 41, and Paragraphs 123 through 133. Id.

Federal Rule of Civil Procedure 12(f) authorizes the Court to strike any portion of a complaint that is "redundant, immaterial, impertinent or scandalous." Fed. R. Civ. P. 12(f). However, "[m]otions to strike are disfavored and infrequently granted." Neveu v. City of Fresno, 392 F.Supp.2d 1159, 1170 (E.D. Cal. 2005). It must be "clear that the matter to be stricken could have no possible bearing on the subject matter of

the litigation." Id. Moreover, "courts often require a showing of prejudice by the moving party." Wynes v. Kaiser Permanente Hosp., No. 2:10-cv-00702-MCE-GGH, 2011 WL 1302916, at *12 (E.D. Cal. Mar. 11, 2011).

Plaintiffs urge the Court to reject Defendants' motion to strike, calling it frivolous. Opp'n at 6-7. They argue each paragraph Defendants ask this Court to strike relates to the claims in this case as they reflect Defendants' "long history of discriminatory and deadly policing against people who protest racial injustice." Id. at 6. Nor are any of the paragraphs spurious or scandalous; they "evince the [SPD]'s pattern of disregard to the rights of racial justice protestors." Id. at 7.

In their reply, Defendants emphasize they seek to strike "only 35 paragraphs, out of 243 paragraphs in the FAC" and that these paragraphs do not eliminate the "history of discrimination towards racial justice protesters." Reply at 4-5. However, Defendants do not clearly show these paragraphs "could have no possible bearing" on the case. See Neveu, 392 F.Supp.2d at 1170. Nor have they shown prejudice. See Wynes, 2011 WL 1302916, at *12. Defendants' motion to strike is therefore denied.

D. Analysis: Motion for a More Definite Statement

Finally, Defendants move for a more definite statement. Mot. at 14-15. Federal Rule of Civil Procedure 12(e) authorizes a party to move for a more definite statement where a pleading "is so vague or ambiguous that a party cannot reasonably prepare a response." Fed. R. Civ. P. 12(e). "A Rule 12(e) motion is proper only where the complaint is so indefinite that the defendant cannot ascertain the nature of the claim being

asserted." Sagan v. Apple Comput., Inc., 874 F.Supp. 1072, 1077 (C.D. Cal. 1994). These motions "are rarely granted because of the minimal pleading requirements of the Federal Rules." Id. "[W]here the information sought by the moving party is available and/or properly sought through discovery the motion [for a more definite statement] should be denied." Famolare, Inc. v. Edison Bros. Stores, Inc., 525 F.Supp. 940, 949 (E.D. Cal. 1981).

Here, Defendants contend the "lengthy shotgun FAC does not allow the Defendants to properly frame a responsive pleading" and ask the Court to order Plaintiffs to further amend and provide a more definite statement of their claims. Mot. at 15. Plaintiffs counter that to the extent Defendants seek even more specificity in dates, times, locations, and witnesses, those facts will be available in discovery. Opp'n at 6.[3] The Court agrees.

Defendants have not shown this is the rare case where a motion for a more definite statement should be granted. See Sagan, 874 F.Supp. at 1077. Accordingly, the Court denies Defendants' motion for a more definite statement.

III. ORDER

For the reasons set forth above, the Court GRANTS IN PART and DENIES IN PART Defendants' motion to dismiss. Specifically, the Court:

(1) DISMISSES WITH PREJUDICE Jones, Nash, and Zapata's state law claims (FAC 7th, 8th, 9th and 10th claims for relief);

[3] Defendants' reply is silent as to the motion for a more definite statement. See Reply.

(2) DISMISSES WITHOUT PREJUDICE Aguilar's state law claims (FAC 7th, 8th, 9th and 10th claims for relief);

(3) DISMISSES WITHOUT PREJUDICE Plaintiffs' conspiracy claims (FAC 5th and 6th claims for relief); and

(4) DENIES Defendants' motion to dismiss as to the remaining claims.

Additionally, the Court DENIES Defendants' motion to strike and DENIES Defendants' motion for a more definite statement. If Plaintiffs elect to amend their complaint, they shall file a second amended complaint within twenty days (20) of this Order. Defendants' responsive pleadings are due within twenty days (20) thereafter.

IT IS SO ORDERED.

Dated: June 6, 2022

JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE