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13 Department, Sheriff Joseph Lombardo, Andrew Bauman, Matthew

14 Kravetz, Supreet Kaur, David Jeong, and Theron Young

15 **UNITED STATES DISTRICT COURT**  
16 **DISTRICT OF NEVADA**

17 CONNIE SEMPER<sup>1</sup>, an individual; ASHLEY  
18 MEDLOCK, an individual; LONICIA  
19 BOWIE, an individual; MICHAEL GREEN,  
20 an individual; CLINTON REECE, an  
21 individual; COREY JOHNSON, an  
22 individual; DEMARLO RILEY, an  
23 individual; CORY BASS, an individual;  
24 CARLOS BASS, an individual; BREANNA  
25 NELLUMS, an individual; and ANTONIO  
WILLIAMS, an individual,

16 Plaintiffs,

17 vs.

18 LAS VEGAS METROPOLITAN POLICE  
19 DEPARTMENT, in its official capacity;  
20 ANDREW BAUMAN, individually and in  
21 his capacity as a Las Vegas Metropolitan  
22 Police Department Officer; DAVID JEONG,  
23 individually and in his capacity as a Las  
24 Vegas Metropolitan Police Department  
25 Officer; SUPREET KAUR, individually and  
in his capacity as a Las Vegas Metropolitan  
Police Department Officer; MATTHEW  
KRAVETZ, individually and in his capacity  
as a Las Vegas Metropolitan Police  
Department Officer; and THERON YOUNG,  
individually and in his capacity as a Las  
Vegas Metropolitan Police Department  
Officer,

26 Defendants.

27 Case Number:  
28 2:20-cv-01875-JCM-EJY

29 **LVMPD DEFENDANTS' MOTION FOR**  
**PARTIAL DISMISSAL OF**  
**PLAINTIFFS' SECOND AMENDED**  
**COMPLAINT**

30 <sup>1</sup> Pursuant to FRCP 25, Ms. Semper has been substituted for Phillip Semper pursuant to this court's  
31 order date January 13, 2022, as she is the executrix of his estate.

1 **LVMPD DEFENDANTS' MOTION FOR PARTIAL DISMISSAL OF PLAINTIFFS'**  
 2 **SECOND AMENDED COMPLAINT**

3 Defendants, the Las Vegas Metropolitan Police Department (the "Department" or  
 4 "LVMPD"), Andrew Bauman ("Bauman"), Matthew Kravetz ("Kravetz"), Supreet Kaur  
 5 ("Kaur"), David Jeong ("Jeong"), and Theron Young ("Young"), collectively ("LVMPD  
 6 Defendants"), by and through their attorneys of record, the law firm of Marquis Aurbach,  
 7 hereby submit their Motion to Dismiss Plaintiffs' Second Amended Complaint [ECF No.  
 8 89]. This Motion is made and based upon all papers, pleadings, and records on file herein,  
 9 the attached Memorandum of Points and Authorities, and any oral argument allowed at a  
 10 hearing on this matter.

11 **MEMORANDUM OF POINTS & AUTHORITIES**

12 **I. INTRODUCTION AND STATEMENT OF FACTS.**

13 The Represented Plaintiffs<sup>2</sup>' Second Amended Complaint asserts claims that are not  
 14 viable and must be dismissed. First, Plaintiffs allege that the individual officers are being  
 15 sued in their official capacities for purposes of the state law claims. ECF No. 89, ¶ 17-21.  
 16 The state law claims have been dismissed with prejudice. ECF No. 38. As such, LVMPD  
 17 requests that the individual defendants, in their official capacities, be dismissed as such  
 18 claims (official-capacity claims) are redundant of claims against LVMPD. Likewise, the  
 19 Court previously recognized, and Plaintiffs conceded, that Plaintiffs Title VI claim is limited  
 20 to LVMPD and cannot be maintained against the individual defendants. *Id.* Thus, this  
 21 Court should dismiss the individual defendants from Plaintiffs' Title VI claim.

22 The Second Amended Complaint makes new claims under the First Amendment and  
 23 Fourteenth Amendment. ECF No. 89, ¶¶ 379-468. These new claims, however, must be  
 24 dismissed because they fail to state a claim for relief. Likewise, Plaintiffs' conspiracy  
 25 claims have been amended and cannot be maintained. Plaintiffs' First Amendment claims  
 26 are predicated on the theory that LVMPD Defendants have violated their Freedom to

27 <sup>2</sup> For the purpose of this motion, LVMPD Defendants will refer to Represented Plaintiffs as  
 28 Plaintiffs.

1 Associate and Freedom of Expression. However, Plaintiffs have failed to allege facts that  
 2 support a protectible interests under the First Amendment under either theory. And, as a  
 3 result, Plaintiffs cannot maintain any First Amendment claim, including a Chilling Effect  
 4 claim.

5 Plaintiffs' Fourteenth Amendment claim asserts that LVMPD Defendants violated  
 6 their Procedural Due Process rights under the Stigma-Plus doctrine when they were  
 7 identified as gang members and/or gang affiliates/associates based on LVMPD's policy. *Id.*  
 8 at ¶¶ 379-445. As pointed out below, however, Plaintiffs have not identified a *false*  
 9 statement for the "stigma" aspect of their claim. And, Plaintiffs have not alleged facts that  
 10 prove a protectible interest is impacted by such designation. As a final point, Plaintiffs have  
 11 not identified a single officer responsible for the "stigma" and "plus" aspect of their claim,  
 12 requiring dismissal of the same.

13 Finally, Plaintiffs' conspiracy claims are barred by the Intra-corporate Conspiracy  
 14 doctrine. The law is well-established that employees of an entity cannot conspire with  
 15 themselves for purposes of a conspiracy claim.

16 For these reasons, LVMPD Defendants ask that the Court grant its motion for partial  
 17 dismissal.

18 **II. LEGAL ARGUMENT**

19 **A. LEGAL STANDARD.**

20 The purpose of a Rule 12(b)(6) motion to dismiss for failure to state a claim is to test  
 21 the legal sufficiency of a complaint. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001).  
 22 In assessing a motion to dismiss, the issue is not whether a plaintiff will ultimately prevail  
 23 on the merits, but rather, whether the claimant asserted sufficient factual allegations to  
 24 support his claims such that it is not unfair to require the opposing party to be subjected to  
 25 the expense of discovery and continued litigation. *See, e.g., Starr v. Baca*, 652 F.3d 1202,  
 26 1216 (9th Cir. 2011); *Gilligan v. Jamco Dev. Corp.*, 108 F.3d 246, 249 (9th Cir. 1997).

27 "To avoid a Rule 12(b)(6) dismissal, a complaint does not need detailed factual  
 28 allegations; rather, it must plead 'enough facts to state a claim to relief that is plausible on its

1 face.”” *Clemens v. DaimlerChrysler Corp.*, 534 F.3d 1017, 1022 (9th Cir. 2008) (quoting  
 2 *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)); *Ashcroft v. Iqbal*, 556 U.S. 662, 678  
 3 (2009) (“A claim has facial plausibility when the plaintiff pleads factual content that allows  
 4 the court to draw the reasonable inference that the defendant is liable for the misconduct  
 5 alleged.”). Nevertheless, even though a complaint does not need detailed factual allegations,  
 6 the facts stated “must be enough to raise a right to relief above the speculative level . . . on  
 7 the assumption that all the allegations in the complaint are true (even if doubtful in fact).”  
 8 *Twombly*, 550 U.S. at 555. Thus, “[a] pleading that offers ‘labels and conclusions’ or ‘a  
 9 formulaic recitation of the elements of a cause of action will not do.” *Iqbal*, 556 U.S. at 678.

10 Further, a complaint will not suffice if the plaintiff fails to assert valid causes of  
 11 action. *Halet v. Wend Inv Co.*, 672 F.2d 1305, 1306 (9th Cir. 1982). Likewise, courts may  
 12 also dismiss a claim if “the running of the statute [of limitations] is apparent on the face of  
 13 the complaint.” *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1045 (9th Cir.  
 14 2011) (internal quotation marks and brackets omitted).

15 **B. THE OFFICERS IN THEIR OFFICIAL CAPACITIES MUST BE  
 16 DISMISSED.**

17 A claim against an officer in his official capacity is generally considered another way  
 18 of pleading an action against an entity for which an officer is an agent. *Kentucky v.  
 19 Graham*, 473 U.S. 159, 165-166 (1985) (citation omitted). The real party in such suits is the  
 20 entity and it is the entity that will be responsible for any damages. *Ward v. City of Sparks*,  
 21 2011 WL 587153 (D. Nev. Jan. 12, 2011). Where both the public entity and a municipal  
 22 officer are named in a lawsuit, a court may dismiss the individual named in his official  
 23 capacity as a redundant defendant. *Center for Bio-Ethical Reform, Inc.*, 533 F.3d at 799; *see also George v. Sonoma County Sheriff's Dep't.*, 2010 WL 4117372 (N.D. Cal. Oct. 19,  
 24 2010). Because these claims are duplicative of one another, and, it appears from the Second  
 25 Amended Complaint that the official capacity claims were related to the state law claims  
 26 that have been dismissed, it is requested that the individual officers, in their official capacity,  
 27 be dismissed.

**C. THE REPRESENTED PLAINTIFFS CANNOT MAINTAIN A TITLE VI CLAIM AGAINST INDIVIDUAL DEFENDANTS.**

3       Despite conceding to the fact that they cannot maintain such a claim against  
4 individual defendants initially, the Represented Plaintiffs again attempt to assert their Title  
5 VI against the individual defendants. *Compare* ECF Nos. 27 and 38 with ECF No. 89 at 50.  
6 Thus, the Represented Plaintiffs must be estopped from asserting the Title VI claim against  
7 the individual defendants. Moreover, courts have established that individuals cannot be held  
8 liable for violations of Title VI because it prohibits discrimination only by recipients of  
9 federal funding. *See Shotz v. City of Plantation*, Fla., 344 F.3d 1161, 1169 (11th Cir. 2003)  
10 (citing several cases). Accordingly, the Court should order that Plaintiffs' Title VI claim  
11 can only be asserted against LVMPD.

**D. PLAINTIFFS CANNOT DEMONSTRATE THEY ARE PROTECTED UNDER THE FIRST AMENDMENT.**

14 In general, a relationship may be protected under either the First Amendment or the  
15 Due Process Clause of the Fourteenth Amendment. *Erotic Service Provider Legal Education*  
16 & Research Project v. Gascon, 880 F.3d 450, 458 (9th Cir. 2018) (“There are two distinct  
17 forms of freedom of association: (1) freedom of intimate association, protected under the  
18 Substantive Due Process Clause of the Fourteenth Amendment; and (2) freedom of  
19 expressive association, protected under the Freedom of Speech Clause of the First  
20 Amendment.”), as amended, 881 F.3d 792 (9th Cir. 2018); see also *Keates v. Koile*, 883  
21 F.3d 1228, 1236 (9th Cir. 2018) (“[W]e have held that claims under both the First and  
22 Fourteenth Amendment for unwarranted interference with the right to familial association  
23 could survive a motion to dismiss.” (citing *Lee v. City of Los Angeles*, 250 F.3d 668, 686  
24 (9th Cir. 2001)). Plaintiffs assert a First Amendment claim for Freedom of Association and  
25 Expression. Thus, LVMPD Defendants analyze this claim under both a Familial  
26 Association and Expressive Association under the First Amendment.<sup>3</sup>

<sup>3</sup> To the extent Plaintiffs argue that a different analysis under the First Amendment applies, LVMPD Defendants reserve the right to address the same.

1                   **1. Plaintiffs Have no Recognized Familial Interest.**

2                   Plaintiffs cannot establish a protected familial interest merely because they are  
 3 somehow related to Corey Bass. ECF no. 89 at ¶¶ 26-31. It appears that Plaintiffs contend  
 4 that their First Amendment right to associate with Corey Bass, a relative, is violated because  
 5 of Corey Bass' designation as a "Gang Member" in GangNet and LVMPD's alleged policy  
 6 to document individuals associated with Corey Bass as a "gang associate." Such a claim is  
 7 not established in First Amendment jurisprudence.

8                   No viable loss-of-familial-association claim exists for siblings under the First  
 9 Amendment. *J.P. by & through Villanueva v. Cnty. of Alameda*, 803 F. App'x 106, 109 (9th  
 10 Cir. 2020), *cert. denied sub nom. J. P. By & Through Villanueva v. Alameda Cnty.,*  
 11 *California*, 209 L. Ed. 2d 253, 141 S. Ct. 1514 (2021). A familial relationship grounds the  
 12 loss of familial association claims under the First and Fourteenth Amendments. See *Roberts*,  
 13 468 U.S. at 618-20, 104 S.Ct. 3244. Thus far, that familial relationship has been limited to  
 14 that between a parent and child. See *Smith v. City of Fontana*, 818 F.2d 1411, 1418 (9th Cir.  
 15 1987), *rev'd on other grounds in Hodgers-Durgin v. de la Vina*, 199 F.3d 1037, 1040 n.1  
 16 (9th Cir. 1999). *In Ward v. City of San Jose*, 967 F.2d 280, 283 (9th Cir. 1991), as amended,  
 17 the Ninth Circuit explicitly ruled that siblings do not possess a cognizable liberty interest to  
 18 assert a loss of familial association claim under the Fourteenth Amendment. Following this  
 19 logic, the Ninth Circuit confirmed that no basis exists to disregard this precedent simply  
 20 because the claim is raised under the First Amendment rather than the Fourteenth  
 21 Amendment. *J.P. by & through Villanueva v. Cnty. of Alameda*, 803 F. App'x 106, 109 (9th  
 22 Cir. 2020); *Mann v. City of Sacramento*, 748 Fed. App'x, 112 (9th Cir. 2018).

23                   Because Plaintiffs cannot establish a right to familial association under the First  
 24 Amendment, they cannot maintain a First Amendment Association claim.

25                   **2. Plaintiffs Have not Identified an Activity Protected by the First**  
 26 **Amendment.**

27                   The First Amendment's free speech protections encompass the freedom to engage in  
 28 "expressive association," which protects a group's right to gather for a particular expressive

purpose. *Hurley v. Irish-Am. Gay, Lesbian and Bisexual Group of Boston*, 515 U.S. 557, 569 (1995); *cf. Dallas v. Stanglin*, 490 U.S. 19, 24 (1989) (explaining group's coming together for different associational purpose, like dancing, does not "involve the sort of expressive association that the First Amendment has been held to protect").

5 Parties bringing an expressive-association claim under the First Amendment must  
6 demonstrate that they are asserting their right to associate “for the purpose of engaging in  
7 those activities protected by the First Amendment—speech, assembly, petition for the  
8 redress of grievances, and the exercise of religion.” Id. The right to expressive association is  
9 not an absolute right and can be infringed upon if that infringement is: (1) unrelated to the  
10 suppression of expressive association; (2) due to a compelling government interest; and (3)  
11 narrowly tailored. *Roberts v. U.S. Jaycees*, 468 U.S. at 623, 104 S.Ct. 3244.

12 There is no suggestion that these Plaintiffs “take positions on public questions” or  
13 perform any of the other similar activities described in *Board of Directors of Rotary*  
14 *International v. Rotary Club of Duarte*, 481 U.S. 537, 548 (1987). Rather, the allegations  
15 asserted like attending parties and funerals are more like *Stanglin*. There, the Supreme Court  
16 expressly declined to adopt a generalized right of “social association,” without First  
17 Amendment implications. *City of Dallas v. Stanglin*, 490 U.S. 19, 25 (1989). Because  
18 Plaintiffs cannot identify an activity that is protected by the First Amendment that they are  
19 prohibited from engaging in, there can be no Expressive Association claim under the First  
20 Amendment.

### **3. The Can be No Chilling if there is No First Amendment Right Established.**

23 To demonstrate a violation of the First Amendment, a plaintiff must allege that “by  
24 his actions [the defendant] deterred or chilled [the plaintiff’s] speech and such deterrence  
25 was a substantial or motivating factor in [the defendant’s] conduct.” *Mendocino Envtl. Ctr. v.*  
26 *Mendocino County*, 192 F.3d 1283, 1300 (9th Cir.1999) (citing *Sloman v. Tadlock*, 21 F.3d  
27 1462, 1469 (9th Cir.1994)). However, the plaintiff’s speech does not necessarily need to be  
28 actually inhibited. *Id.* Rather, a plaintiff can prove a violation of law so long as “defendants

1 intended to interfere with [the plaintiff's] First Amendment rights." *Id.* (emphasis in  
 2 original). Thus, to establish a First Amendment claim, "the proper inquiry asks 'whether an  
 3 official's acts would chill or silence a person of ordinary firmness from future First  
 4 Amendment activities." *Id.*

5 As demonstrated above, Plaintiffs cannot establish a First Amendment protected  
 6 activity. Without an interest protected by the First Amendment, there can be no claim for  
 7 Chilling under the First Amendment.

8 **E. PLAINTIFFS' PROCEDURAL DUE PROCESS CLAIM FAILS AS A  
 9 MATTER OF LAW**

10 LVMPD Defendants construe Represented Plaintiffs' SAC as asserting a Procedural  
 11 Due Process claim under the stigma-plus doctrine against the individual defendants

12 To state a procedural due process claim, a plaintiff must allege "(1) a liberty or  
 13 property interest protected by the Constitution; (2) a deprivation of the interest by the  
 14 government; [and] (3) lack of process." *Wright v. Riveland*, 219 F.3d 905, 913 (9th Cir.  
 15 2000) (alteration in original) (quoting *Portman v. County of Santa Clara*, 995 F.2d 898, 904  
 16 (9th Cir. 1993)). Although "[d]amage to reputation alone is not actionable," *Hart v. Parks*,  
 17 450 F.3d 1059, 1069 (9th Cir. 2006) (quoting *Paul v. Davis*, 424 U.S. 693, 711–12, 96 S.Ct.  
 18 1155, 47 L.Ed.2d 405 (1976)), such reputational harm caused by the government can  
 19 constitute the deprivation of a cognizable liberty interest if a plaintiff "was stigmatized in  
 20 connection with the denial of a 'more tangible' interest," *id.* at 1069–70 (quoting *Paul*, 424  
 21 U.S. at 701–02, 96 S.Ct. 1155). Under this "stigma-plus" test, a plaintiff who has suffered  
 22 reputational harm at the hands of the government may assert a cognizable liberty interest for  
 23 procedural due process purposes if the plaintiff "suffers stigma from governmental action  
 24 plus alteration or extinguishment of 'a right or status previously recognized by state law.' "  
 25 *Humphries v. County of Los Angeles*, 554 F.3d 1170, 1185 (9th Cir. 2009) (quoting *Paul*,  
 26 424 U.S. at 711, 96 S.Ct. 1155), *rev'd in part on other grounds*, 562 U.S. 29, 131 S.Ct. 447,  
 27 178 L.Ed.2d 460 (2010)). A plaintiff may bring a § 1983 due process claim under a "stigma  
 28 plus infringement" theory by showing a stigmatizing statement plus a deprivation of a "life,

1 liberty, or property interest.” *San Jacinto Sav. & Loan v. Kacal*, 928 F.2d 697, 701 (5th Cir. 2 1991).

3 **1. No Stigma.**

4 “With regard to the stigma element, courts look to whether the government has 5 publicly stigmatized an individual such that his ‘good name, reputation, honor, or integrity’ 6 has been called into question.” *Pedrote-Salinas v. Johnson*, No. 17 C 5093, 2018 WL 7 2320934, at \*5 (N.D. Ill. May 22, 2018). A plaintiff sufficiently alleges stigma by showing 8 the statement is “false and assert[s] some serious wrongdoing on the part of the plaintiff.” 9 *Vander Zee v. Reno*, 73 F.3d 1365, 1369 (5th Cir. 1996) (citations omitted).

10 Here, the facts as alleged show that the Plaintiffs associated with Corey Bass, a gang 11 member, on August 19, 2018 by attending the party at the Rio. Pursuant to LVMPD Policy, 12 as alleged, defines a gang affiliate/associate as an individual other than an identified gang 13 member, who affiliates/associates with an active **gang member(s)** and the relationship can 14 be clearly identified. ECF No. 89 at ¶ 238. This allegation coupled with the allegations 15 tying Plaintiffs to Corey Bass demonstrate that the designation as an affiliate/associate with 16 an active gang member (not a gang), is true. And there are no facts alleged that assert Cory 17 Bass is not an active gang member, only that the individuals did not know he is a gang 18 member. Accordingly, there can be no stigma of Plaintiffs Johnson, Semper, Medlock, or 19 Bowie as an affiliate/associate of Cory Bass as the Second Amended Complaint 20 demonstrates that it is a true statement. *Id.* at ¶¶ 26-31.

21 **2. No Infringement.**

22 Infringement is sufficiently alleged where a plaintiff shows “the state sought to 23 remove or significantly alter a life, liberty, or property interest recognized and protected by 24 state law or one of the incorporated provisions of the Bill of Rights.” *State v. Thompson*, 70 25 F.3d 390, 392 (5th Cir. 1995) (citing *Kacal*, 928 F.2d at 701-02).

26 The Second Amended Complaint asserts that Plaintiffs First and Second Amendment 27 rights have been impacted. *See* ECF No. 89, ¶ 382. As demonstrated above, Plaintiffs have 28 failed to identify a First Amendment protected activity that has been implicated.

1 Additionally, there are no allegations that any of the individual plaintiffs own firearms and  
 2 now are subject to criminal sanctions as a result of this designation or have  
 3 applied/attempted to obtain or acquire firearms and have been denied. Likewise, the  
 4 plethora of statutes referenced in the Second Amended Complaint for purposes of a state  
 5 interest do not apply solely because of the alleged designation but require other acts,  
 6 including performing a criminal act. *Id.* at ¶¶ 285-287. Without a protectible interest,  
 7 Plaintiffs cannot maintain a due process violation claim.

8

9       **3. Second Amended Complaint Fails to Identify an Individual**  
**Officer Associated with the Stigma Doctrine Claim.**

10       Even if this Court believes that Plaintiffs have asserted a Stigma-Plus Doctrine claim  
 11 under the Fourteenth Amendment, Plaintiffs have failed to identify a specific officer  
 12 responsible for inputting the Plaintiffs into the GangNet database, resulting in the alleged  
 13 designation of Plaintiffs. LVMPD cannot be liable in a respondeat superior capacity and the  
 14 “stigma” and “plus” must be committed by the same state actor. *URI Student Senate v.*  
 15 *Town of Narragansett*, 631 F.3d 1, 10 (1st Cir. 2011) (“Where the stigma and the  
 16 incremental harm—the ‘plus’ factor—derive from distinct sources, a party cannot make out  
 17 a viable procedural due process claim ... even if both sources are government entities.”) and  
 18 *Hawkins v. Rhode Island Lottery Commission*, 238 F.3d 112, 115–16 (1st Cir. 2001)  
 19 (affirming dismissal of stigma-plus due process claim where different individual actors were  
 20 responsible for different conduct).

21       While the Ninth Circuit has not squarely addressed the issue, its decision in Cooper  
 22 is instructive. *Cooper v. Dupnik*, 924 F.2d 1520, 1532 (9th Cir. 1991). There, one of the  
 23 plaintiffs, Michael Cooper, was arrested on suspicion of being a serial rapist. *Id.* at 1524.  
 24 Despite knowing that the evidence on which the arrest was made was incorrect and the result  
 25 of negligence, Peter Ronstadt, the Tucson Chief of Police, gave a press conference  
 26 defending the arrest and making what the plaintiff contended were defamatory and false  
 27 statements about him. *Id.* at 1525. The Ninth Circuit found that Ronstadt had violated  
 28 Cooper's constitutional rights based on a “stigma-plus” theory. *Id.* at 1534–36. To be sure,

1 the circuit court's opinion is not crystal clear as to what role Ronstadt played in Cooper's  
 2 arrest. But the opinion repeatedly refers to Ronstadt's personal responsibility for Cooper's  
 3 arrest and for the allegedly defamatory remarks—the holding turns on the fact that Ronstadt  
 4 was personally involved in both events. The Ninth Circuit emphasized that "part of the  
 5 alleged due process violation perpetrated by Ronstadt was the false arrest ... So even if true  
 6 that Ronstadt had to say something, he put himself in this position by his own allegedly  
 7 wrongful conduct." *Id.* at 1536; *see also id.* at 1534 ("Ronstadt's statements were intertwined  
 8 with his arrest of Cooper"). Requiring a closer degree of coincidence is also more consistent  
 9 with *Iqbal*'s teaching that "a plaintiff must plead that each Government-official defendant,  
 10 through the official's own individual actions, has violated the Constitution." *Iqbal*, 556 U.S.  
 11 at 676.

12 Because there are no allegations that a single actor is responsible for the "stigma"  
 13 and "plus" aspect of Plaintiffs' claims, it fails as a matter of law.

14 **F. CONSPIRACY CLAIMS FAIL AS A MATTER OF LAW.**

15 Plaintiffs' Conspiracy claims are barred by the intra-corporate conspiracy doctrine,  
 16 which states that a conspiracy requires agreement between two or more persons or distinct  
 17 business entities, would bar such a claim. *See Rabkin v. Dean*, 856 F.Supp. 543, 550-52  
 18 (N.D. Cal. 1994) (applying doctrine in §1985 case); *Hofmann v. City and Cty. of San*  
 19 *Francisco*, 870 F.Supp.2d 799, 809 (N.D. Cal. 2012). The doctrine provides that, as a  
 20 matter of law, an entity cannot conspire with its own employees or agents. The Ninth  
 21 Circuit has not expressly addressed whether the doctrine applies either to government  
 22 entities or to civil rights claims. *Id.* District courts have extended the doctrine to §1983  
 23 claims. *See Stuart v. City of Scottsdale*, 2021 WL 977166, \*6 (D. Ariz. March 16, 2021)  
 24 (Civil rights allegations "fall squarely within the intracorporate conspiracy doctrine" and  
 25 "[w]here the individual defendants are all employees of the institutional defendant, a claim  
 26 of conspiracy will not stand." (citations omitted)); *Hasbrouck v. Yavapai Cty.*, 2021 WL  
 27 321894, \*15 (D. Az. Feb. 1, 2021) ("district courts [in the Ninth Circuit] that have addressed  
 28 the issue consistently have held that it does apply"); *Ruble v. Escola*, 898 F.Supp.2d 956,

1 986 (N.D. Ohio 2012) (applying the doctrine to both federal law and Ohio state law  
 2 conspiracy claims).

3 At a minimum, the individual defendant enjoy qualified immunity on the issue  
 4 because the law is not clearly established as to whether such a claim exists. *See Fazaga v.*  
 5 *FBI*, 965 F.3d 1015, 1060 & n.41 (9th Cir. 2020) (qualified immunity barred claim because  
 6 there is not clearly established Ninth Circuit law on whether “an intracorporate agreement  
 7 could subject federal officials to liability under § 1985(3)”).

8 **III. CONCLUSION**

9 Based on the foregoing, LVMPD Defendants respectfully request the Court grants  
 10 their Motion for Partial Dismissal of Plaintiffs’ Second Amended Complaint.

11 Dated this 26th day of September, 2022.

12 MARQUIS AURBACH

13  
 14 By: /s/ Jackie V. Nichols  
 15 Craig R. Anderson, Esq.  
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 23 Joseph Lombardo, Andrew Bauman,  
 24 Matthew Kravetz, Supreet Kaur, David  
 25 Jeong, and Theron Young

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I electronically filed the foregoing **LVMPD DEFENDANTS'**  
3 **MOTION FOR PARTIAL DISMISSAL OF PLAINTIFFS' SECOND AMENDED**  
4 **COMPLAINT** with the Clerk of the Court for the United States District Court by using the  
5 court's CM/ECF system on the 26th day of September, 2022.

6  I further certify that all participants in the case are registered CM/ECF users  
7 and that service will be accomplished by the CM/ECF system.

8  I further certify that some of the participants in the case are not registered  
9 CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid,  
10 or have dispatched it to a third party commercial carrier for delivery within 3 calendar days  
11 to the following non-CM/ECF participants:

12 Carlos Bass  
13 2621 Sommer Ct.  
14 North Las Vegas, Nevada 89032  
15 *Plaintiff Pro Per*

16 Cory Bass  
17 2621 Sommer Ct.  
18 North Las Vegas, Nevada 89032  
19 *Plaintiff Pro Per*

20 Breanna Nellums  
21 4012 Warm Hearted Ct.  
22 North Las Vegas, Nevada 89032  
23 *Plaintiff Pro Per*

24 Antonio Williams  
25 3912 Red Trumpet Ct.  
26 North Las Vegas, Nevada 89081  
27 *Plaintiff Pro Per*

28  
29 /s/ Rosie Wesp  
30 An employee of Marquis Aurbach