

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 24 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GO BEST, LLC,

Plaintiff - Appellant,

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Defendant - Appellee.

No. 25-3753

D.C. No.

2:24-cv-00632-RFB-DJA

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Daniel J. Albregts, Magistrate Judge, Presiding

Argued and Submitted August 11, 2026
Reno, Nevada

Before: OWENS, FORREST, and VANDYKE, Circuit Judges.

Plaintiff-Appellant Go Best, LLC, appeals the district court's dismissal of its 42 U.S.C. § 1983 claim (the *Monell* claim) against Defendant-Appellee Las Vegas Metropolitan Police Department (LVMPD). Go Best alleges that LVMPD violated its rights against unreasonable searches and seizures under the Fourth and Fourteenth

*This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Amendments when it retained Go Best’s laptop after a state court ordered it to be returned. The district court granted LVMPD’s motion to dismiss this claim. Go Best also asserted claims against unnamed LVMPD officers based on the search, seizure, and retention of the laptop, but it voluntarily dismissed those claims after the district court dismissed its *Monell* claim.

1. ***Appellate Jurisdiction.*** We have jurisdiction over “final decisions of the district courts,” 28 U.S.C. § 1291, and an appeal must be taken within thirty days of the final order being appealed, 28 U.S.C. § 2107(a). *See Parrish v. United States*, 605 U.S. 376, 381–82 (2025) (explaining that § 2107(a)’s timeliness requirement is jurisdictional). LVMPD moved to dismiss for lack of appellate jurisdiction, arguing that Go Best’s appeal was interlocutory and untimely. We deny the motion.

Plaintiffs have an “absolute right” to dismiss parties who have not yet appeared. *Duke Energy Trading & Mktg., L.L.C. v. Davis*, 267 F.3d 1042, 1048 (9th Cir. 2001). And we have repeatedly held that a voluntary dismissal with prejudice following a partial judicial ruling creates a final judgment for purposes of appellate review except in specific circumstances not present here. *See, e.g., id.* at 1048–49; *Galaza v. Wolf*, 954 F.3d 1267, 1270 (9th Cir. 2020) (“[W]e have previously ruled that a Rule 41(a)(1) voluntary dismissal of all remaining claims with prejudice can potentially act in some circumstances to create an appealable final judgment under 28 U.S.C. § 1291.” (citing *Concha v. London*, 62 F.3d 1493, 1506–09 (9th Cir.

1995))); *Trendsetta USA, Inc. v. Swisher Int'l, Inc.*, 31 F.4th 1124, 1131–32 (9th Cir. 2022) (explaining the concern with “adversely affect[ing]” statutory and rule-based restrictions on appeals, such as class certification orders or orders to compel arbitration, “by permitting voluntary dismissal of claims with prejudice” (citations omitted)).

Here, as stated in Go Best’s dismissal notice, the unnamed defendants had not filed an answer or otherwise appeared when they were dismissed, and GoBest explicitly stated that its claims against these defendants were “voluntarily dismissed *with prejudice*.” Thus, the dismissal resulted in a final judgment.¹ *Duke Energy*, 267 F.3d at 1048–49; *Galaza*, 954 F.3d at 1270.

As to timeliness, it is undisputed that Go Best filed its notice of appeal within 30 days of its dismissal that created a final judgment subject to appellate review. LVMPD’s insistence that Go Best’s 30-day window to appeal the dismissal of the *Monell* claim began when the district court made its decision on that claim is not well-taken. *See Riley v. Kennedy*, 553 U.S. 406, 419 (2008) (“A final judgment is one which ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.” (citation modified)); *cf. Duke Energy*, 267 F.3d at 1049

¹We decline to accept LVMPD’s request to fashion a rule requiring that “the appealing party should alert the adverse party and district court that the voluntary dismissal is occurring with prejudice to appeal a determinative decision.” We have never recognized such a rule, and the out-of-circuit authority LVMPD cites is distinguishable.

(holding that the district court’s previous grant of summary judgment in favor of the other defendant became a final decision following the plaintiff’s dismissal of its claims against the non-appearing defendant). Go Best’s appeal was therefore timely.

2. Monell Claim. We review the grant of a motion to dismiss de novo. *Patel v. City of Montclair*, 798 F.3d 895, 897 (9th Cir. 2015). To state a § 1983 claim against a municipality, the plaintiff must demonstrate a constitutional injury that results from a “policy” or “custom.” *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 694 (1978). The district court dismissed the *Monell* claim after finding that the single incident of retaining the laptop did not demonstrate the existence of a policy. We affirm.

As we have previously explained, “generally, a single instance of unlawful conduct is insufficient to state a claim for municipal liability under section 1983,” although there can be an exception “where fault and causation were clearly traceable to a municipality’s legislative body or some other authorized decisionmaker.” *Benavidez v. County of San Diego*, 993 F.3d 1134, 1154 (9th Cir. 2021) (citation modified); *see also Pembaur v. City of Cincinnati*, 475 U.S. 469, 481 (1986) (holding that a decision “made by [the defendant] government’s authorized decisionmakers” is a policy even if it is not intended to apply outside the instant situation). Before the district court, however, Go Best disclaimed any involvement of LVMPD’s decisionmakers in the decision to retain the laptop. Go Best also has

not alleged a “pattern of prior, similar violations.” *Hyun Ju Park v. City & County of Honolulu*, 952 F.3d 1136, 1142 (9th Cir. 2020).

In any case, the allegations in Go Best’s complaint are conclusory and “lack any factual allegations that would separate them from the ‘formulaic recitation of a cause of action’s elements’” that is insufficient under *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). *Dougherty v. City of Covina*, 654 F.3d 892, 900 (9th Cir. 2011) (quoting *Twombly*, 550 U.S. at 555). Therefore, we affirm the district court’s dismissal of Go Best’s *Monell* claim against LVMPD.²

AFFIRMED.

²We also affirm the district court’s refusal to apply issue preclusion to the question of LVMPD’s liability based on the Nevada state court decisions ordering LMVPD to return the laptop. The state litigation did not determine whether LVMPD’s actions were pursuant to a policy or custom sufficient to state a *Monell* claim. See *Five Star Cap. Corp. v. Ruby*, 194 P.3d 709, 713 (Nev. 2008) (holding that issue preclusion requires that “the issue decided in the prior litigation [was] identical” (citation modified)); see also *Migra v. Warren City Sch. Dist. Bd. of Educ.*, 465 U.S. 75, 81–83 (1984) (explaining that constitutional questions decided by the state are entitled to preclusive effect in subsequent federal litigation based on the preclusion rules of the state).