

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 10-6342 CBM (AJWx)	Date	July 12, 2013
Title	<i>Heriberto Rodriguez v. County of Los Angeles et al</i>		

Present: The Honorable	CONSUELO B. MARSHALL		
	Yolanda Skipper		n/a
	Deputy Clerk		Court Reporter / Recorder
	Attorneys Present for Plaintiffs:		Attorneys Present for Defendants:
	n/a		n/a

**Proceedings:** IN CHAMBERS/OFF THE RECORD  
**ORDER DENYING MOTIONS FOR SUMMARY JUDGMENT,  
GRANTING MOTION FOR JOINDER, AND GRANTING MOTION IN  
LIMINE**

There are two motions for summary judgment before the Court. Defendants County of Los Angeles, Los Angeles Sheriff’s Department, and certain individual Defendants move separately from certain individual Defendants. [Docket Nos. 214, 219.] (collectively, “Motions.”)

The Court **GRANTS** Defendant Hernan Delgado’s Motion for Joinder in Reply to Defendants’ Motions for Summary Judgment. [Doc. No. 247.] The Court **GRANTS** Plaintiff’s Motion in Limine to Admit the Citizens’ Commission on Jail Violence Report. [Doc. No. 223.]

In their Complaint, Plaintiffs bring causes of action for (1) violations of their Eighth and Fourteenth Amendment rights under 42 U.S.C. § 1983; (2) denial of medical care in violation of their Eighth and Fourteenth Amendment rights; (3) excessive force, threats, intimidation, and coercion in violation of California Civil Code § 52.1; (4) denial of medical care in violation of California Civil Code § 52.1; and (5) assault and battery. The Court addresses the first (1) and fifth (5) causes of action against all Defendants and the third (3) cause of action against individual Defendants.

- I. The Motions are **DENIED** as to Supervisor Defendants. There are genuine issues of material fact raised by the admissible and relevant evidence provided by Defendants and Plaintiffs as to the excessive force used and their entitlement to qualified immunity for Defendants Cruz, Blasnek, Washington, McGrattan, and Ohnemus.
  - A. Defendants and Plaintiffs provide evidence that raises genuine issues of material fact whether Defendants Cruz and Blasnek authorized, explicitly or implicitly, the use of unreasonable or inappropriate force against multiple Plaintiffs.

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- B. Defendants and Plaintiffs provide evidence that raises genuine issues of material fact whether Defendant Washington authorized, explicitly or implicitly, the use of unreasonable or inappropriate force, the use of Tasers, and less-lethal weapons in the cell of Plaintiff Trinidad.
- C. Defendants and Plaintiffs provide evidence that raises genuine issues of material fact whether Defendant McGrattan and Ohnemus authorized, explicitly or implicitly, the use of unreasonable or inappropriate force, the use of Tasers, and less-lethal weapons in the cells of multiple Plaintiffs.
2. The Motions are **DENIED** as to Deputy Defendants. There are genuine issues of material fact raised by the admissible and relevant evidence provided by Defendants and Plaintiffs as to the excessive force used and their entitlement to qualified immunity for Deputy Defendants:
- A. Defendants and Plaintiffs provide evidence that raises genuine issues of material fact as whether Defendants Ortega and Gonzalez used excessive force in the form of Tasers and less-lethal weapons in the cells of multiple Plaintiffs.
- B. Defendants and Plaintiffs provide evidence that raises genuine issues of material fact as whether Defendants Delatorre, Diaz, Galindo, Nowotny, Ruiz, Sanford, and Stelter used excessive force through their use of less-lethal weapons against multiple Defendants.
- C. Defendants and Plaintiffs provide evidence that raises genuine issues of material fact as whether Defendant Deputies Vazquez and McNichols used excessive force through their use of Tasers against Plaintiff Trinidad.
- D. Defendants and Plaintiffs provide evidence that raises genuine issues of material fact as whether Defendant Deputies Frazier, Orlandos, Graham, and Cano used excessive force through their use of physical force against Plaintiff Trinidad.
- E. Defendants and Plaintiffs provide evidence that raises genuine issues of material fact as whether Defendant Deputies Alonso and Castanon used excessive force through their use of physical force against Plaintiff Nunez.
- F. Defendants and Plaintiffs provide evidence that raises genuine issues of material fact as whether Defendant Deputy Esqueda used excessive force through his use of physical force against Plaintiff Rodriguez.
- G. Defendants and Plaintiffs provide evidence that raises genuine issues of material fact as whether Defendant Deputies Alonso and Thomas used excessive force through their use of physical force against multiple Plaintiffs.
- H. Defendants and Plaintiffs provide evidence that raises genuine issues of material fact as whether Defendant Deputies Delgado, Lyons, Bravo, and Guzman used excessive force through their use of less lethal weapons and physical force against Plaintiff Flores.

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3. There are genuine issues of material fact in dispute as to Plaintiff’s Monell claim. Defendant stated that it has formal policies and training protocols to deal with excessive force claims. Plaintiff’s evidence in the form of the Citizen’s Commission Against Jail Violence report, the number of lawsuits filed alleging excessive force, and other admissible and relevant evidence raises a genuine issue as to whether there is a custom or policy of excessive force. The Motion is **DENIED** as to the Monell claim.

4. The County of Los Angeles and LASD are immune from liability as to Plaintiff’s state law causes of action three (3) and five (5) – this Court has previously Ordered in its decision on the Motion for Judgment on the Pleadings that these claims are dismissed only as to the County and LASD. The Motions are **DENIED** as to causes of action three (3) and five (5) against only the public entity defendants because they are moot.

5. Plaintiff’s California Civil Code § 52.1 claims can withstand summary judgment because there are genuine issues of material fact as to Defendants’ use of excessive force and entitlement to qualified immunity. The Motions are **DENIED** as to the § 52.1 causes of action.

The Motions for Summary Judgment are **DENIED**.

IT IS SO ORDERED.

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