

2006 WL 1360989
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United States District Court,
C.D. California, Western Division.

S.A. THOMAS, et al.
v.
Leroy BACA

No. CV 04-8448-DDP(SH). | May 11, 2006.

David D. Lawrence, Paul B. Beach, Franscell, Strickland,
Roberts & Lawrence, Glendale, CA for defendants.

Opinion

CIVIL MINUTES-GENERAL

HILLMAN, Magistrate J.

Attorneys and Law Firms

Stephen Yagman, Marion R. Yagman, Joseph Reichmann,
Yagman & Yagman & Reichmann, Venice Beach, CA,
for plaintiffs.

SANDRA BUTLER

DOCKET ENTRY

n/a

Deputy Clerk

Tape Number

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

N/A

N/A

PROCEEDINGS: (IN CHAMBERS)

*1 Defendant Baca's Motion for Protective Order
Quashing the Deposition Notice for Defendant Leroy D.
Baca (filed Mar. 13, 2006, docket # 331) is DENIED.

Plaintiffs' municipal liability claim that a policy or
custom of the Los Angeles Sheriff's Department amounts
to deliberate indifference to plaintiffs' constitutional
rights is the quintessential municipal liability claim in
which the state of mind of the prison official with ultimate
responsibility is relevant. *See Wilson v. Seiter*, 501 U.S.
294, 299, 111 S.Ct. 2321, 115 L.Ed.2d 271 (1991)(finding
that case law requires inquiry into a prison official's state
of mind when it is claimed that the official has inflicted
cruel and unusual punishment); *Berry v. Baca*, 379 F.3d
764, 767 (9th Cir.2004)(in order to impose liability based

on a policy of deliberate inaction, the plaintiff must
establish, *inter alia*, that the policy amounts to deliberate
indifference to the plaintiff's constitutional right);
Redman v. County of San Diego, 942 F.2d 1435, 1445 (9th
Cir.1991)(noting that "[t]he term 'policy' generally
implies a course of action consciously chosen from
among various alternatives," and concluding that "*Monell*
imposes liability for injuries resulting from such a choice
..."), citing *City of Oklahoma v. Tuttle*, 471 U.S. 808, 823,
105 S.Ct. 2427, 85 L.Ed.2d 791 (1985).

Accordingly, plaintiffs are entitled to depose the official
with ultimate responsibility for prisoners' safekeeping
while in the county jails. *See Cortez v. County of Los
Angeles*, 294 F.3d 1186, 1187 (9th Cir.2002)(holding that
the Los Angeles County Sheriff acts as the final
policymaker for the County of Los Angeles in
establishing and implementing policies and procedures for
the safekeeping of inmates in the county jail); *Streit v.*

Thomas v. Baca, Not Reported in F.Supp.2d (2006)

County of Los Angeles, 236 F.3d 552, 564-65 (9th Cir.2001); *Redman*, 942 F.2d at 1446; *see also* Cal.Penal Code § 4000; Cal. Gov't Code § 26605.

Sheriff Baca, who defendant contends is a high-ranking government official and should only be deposed under extraordinary circumstances (*but see Detoy v. City and County of San Francisco*, 196 F.R.D. 362, 369-70 (N.D.Cal.2000))("A chief of police is not necessarily a high government official as in the cases cited by

defendants.")), is the named defendant in the case, and has not demonstrated that he lacks personal knowledge of relevant facts. *See Green v. Baca*, 226 F.R.D. 624, 648-49 (C.D.Cal.2005)(permitting plaintiff to call Sheriff Baca to testify regarding jail release policies, where Sheriff Baca was the final policymaker for the County in setting and implementing jail release policies and did not assert that he had no knowledge of those policies).