

EXHIBIT

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DONALD HUNTER, individually)
and as successor in interest)
to ANTOINE HUNTER deceased;)
etc, et al.,)
Plaintiffs,)
vs.)
COUNTY OF LOS ANGELES; et al.,)
Defendants.)

CASE NO. CV 14-09482-GHK

VIDEOTAPED DEPOSITION OF
DEPUTY TIMOTHY LEE
WOODLAND HILLS, CALIFORNIA
SEPTEMBER 28, 2015

ATKINSON-BAKER, INC.
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REPORTED BY: KIMBERLY A. THORNTON, CSR NO. 11994
FILE NO.: A90ABBD

1 THE VIDEOGRAPHER: I'm Scott Schiff, your 09:34
2 videographer, and I represent Atkinson-Baker, Incorporated,
3 of Glendale, California. I'm not financially interested in
4 this action, nor am I a relative or an employee of any
5 attorney of any of the parties. The date is September 28, 09:34
6 2015. The time is 9:34 A.M. This deposition is taking
7 place at 21800 Burbank Boulevard in Woodland Hills,
8 California. This is case number CV-1409482GHKMANX entitled
9 "Donald Hunter, et al. vs. County of Los Angeles, et al."
10 The deponent is Timothy Lee. This deposition is being 09:35
11 taken on behalf of the plaintiffs. Your court reporter is
12 Kim Thornton.
13 Would counsel please introduce themselves for the
14 record.
15 MR. GALIPO: Dale Galipo on behalf of some of the 09:35
16 plaintiffs.
17 MR. CARRAZCO: Angel Carrazco on behalf of the other
18 plaintiffs.
19 MR. SEABAUGH: Tom Seabaugh on behalf of the same
20 plaintiffs that Mr. Galipo represents. 09:35
21 MR. KIZZIE: Antonio Kizzie on behalf of all the
22 defendants.
23
24
25 /// 09:35

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DEPUTY TIMOTHY LEE,

09:35

having first been duly sworn, was
examined and testified as follows:

EXAMINATION

09:35

BY MR. GALIPO:

Q Can you please state your name.

A Yes, sir. Timothy Lee.

Q Have you ever had your deposition taken before?

A Yes, sir.

09:35

Q On how many occasions?

A Twice.

Q Were either one of those work related?

A One of them was, yes.

Q And what did that one have to do with?

09:35

MR. KIZZIE: One second. I think that may go into
employment history that could deal with some Pitchess's
stuff. What was the question?

Could you read that back, please. Sorry.

MR. GALIPO: That's okay. I can repeat it. I asked
him what did that deposition have to do with.

09:36

MR. KIZZIE: Okay. I think it may have to go into
some employment history Pitchess-related stuff. I got to
instruct him not to answer on that. Privacy and Pitchess
and stuff. Objection.

09:36

1 Q BY MR. GALIPO: Okay. Have you ever been named 09:36
2 as a defendant in a lawsuit before?

3 A Yes.

4 Q And on how many prior occasions?

5 MR. KIZZIE: Wait. Same objections on privacy and 09:36
6 Pitchess ground.

7 MR. GALIPO: Whether he's been named as a defendant in
8 a lawsuit?

9 MR. KIZZIE: He was allowed to answer. He's been
10 named as a defendant in a lawsuit but on how many prior 09:37
11 occasions just to that particular question.

12 Q BY MR. GALIPO: When were you named as a
13 defendant in a lawsuit?

14 A Maybe approximately 2013.

15 Q Was that related to a use-of-force incident? 09:37

16 MR. KIZZIE: I got to object on the same employment
17 privacy Pitchess grounds.

18 MR. GALIPO: Well, the problem that I see is I think
19 we are in Federal Court in this case, and particularly if
20 it happened before this, I don't know. I'm trying to 09:37
21 establish the timeline, but if it happened before this,
22 then I clearly think it's discoverable. I can't see -- I'm
23 not at this point asking for any findings of internal
24 affairs investigation. I'm not specifically asking whether
25 he was disciplined in any way. Right now I'm only asking 09:38

1 because if he was involved in a use-of-force incident and 09:38
2 if he was a defendant in a lawsuit and if he did give a
3 deposition, I think all of that is clearly discoverable. I
4 can't see how it's covered -- I understand there's certain
5 privacy rights, but even those in federal cases are 09:38
6 normally governed and covered by a protective order.

7 So I hate to have to come back here again but
8 maybe we will, and I'm just wondering do you think the fact
9 he was in a prior lawsuit in and of itself is privileged
10 and protected? 09:38

11 MR. KIZZIE: I think based on my various experiences
12 in federal court that, although Pitchess is generally state
13 related, that courts have differentiated in their rulings
14 as far as to the nature and extent of what is or isn't
15 discoverable in terms of a deputy's employment history. So 09:39
16 that's why I generally have to make the objection just to
17 obviously preserve that.

18 Obviously allow him to answer whether he's been
19 or the time frame, but, as far as the substantive details
20 of it, I think I have to assert his rights to privacy under 09:39
21 those grounds at least. But --

22 MR. GALIPO: Why don't we take it question by question
23 because I'm trying to be sensitive to certain areas that
24 may be privileged. I asked him whether he has been named
25 as a defendant in a lawsuit before. He said, "Yes." I'm 09:39

1 assuming, although he hasn't answered yet, that may be 09:39
2 related to the deposition he took, and then I asked him how
3 many times he was named as a defendant, and I think you
4 objected to that one at least previously.

5 MR. KIZZIE: Right. 09:39

6 MR. GALIPO: Which I, again, don't think would be
7 covered by privileged because I think any parties to
8 litigation, if they've been parties to litigation before
9 it's at least discoverable. Now, whether it would be
10 admissible at trial may be another question. 09:40

11 Q So the deposition that you took earlier, did it
12 relate to the case where you were named as a defendant in
13 the lawsuit?

14 MR. KIZZIE: You can answer.

15 THE WITNESS: Yes. 09:40

16 Q BY MR. GALIPO: Okay. And is that case still
17 pending as far as you know?

18 A I believe it is, yes.

19 Q Do know the name of the plaintiff who filed that
20 lawsuit? 09:40

21 A Yes.

22 Q What is the name?

23 A I believe it's Burley would be the last name.

24 Q "Burley"?

25 A B-u-r-l-e-y. 09:40

1 Q And if you know, is Mr. Burley represented by an attorney? 09:40
2

3 A Yes.

4 Q Does he have a lawyer in the case?

5 A Yes. 09:41

6 Q Do you know who his lawyer's name is?

7 A I know there were a few. I'm not too sure
8 exactly sure who is representing him.

9 Q Do you remember any of the lawyer's names?

10 A Yes. 09:41

11 Q Who do you remember?

12 A Carl Douglas, John Sweeney. I believe first name
13 John, last name Sweeney, and third one was -- last name was
14 Orange.

15 Q Olu Orange? 09:41

16 A Yes.

17 Q And without going into the details of that
18 incident, because I don't need to go over those today, is
19 that incident -- was that a death or the person did not
20 die? 09:41

21 A That was in custody death, yes.

22 Q In custody death. Okay. And do you have an
23 attorney representing you in that case?

24 A Yes, I do.

25 Q Is it the same law firm as this case or a 09:42

1 A Not precisely. I know it was in June of last 09:53
2 year roughly.

3 Q So when you say June of last year, June, 2014?

4 A Yes, sir. That's correct.

5 Q Do you recall about what time it happened? 09:53

6 A 10:00 o'clock at night.

7 Q You don't recall the day of the week, do you?

8 A I think it I was Tuesday maybe.

9 Q What hours or what days did you normally work
10 during that time frame? 09:53

11 A I work what is called P.M. shift and that was --
12 at the time I believe it might have been 1300 to 2300 hours
13 which would be 1:00 o'clock to 11:00 o'clock at night.

14 Q And did you have a partner on the day of the
15 incident? 09:54

16 A Yes, I did.

17 Q And who was your partner?

18 A That is the gentleman sitting two seats down from
19 my left. That's Deputy Greg Rodriguez.

20 Q How long have you been partners with Deputy 09:54
21 Rodriguez before the date of the incident?

22 A I believe it was the first time I ever drove with
23 him, partnered up with him.

24 Q How was it that you ended up being partnered with
25 Deputy Rodriguez that day? 09:54

1 A I was in a single-man car. He was also in a 09:54
2 single-man car. I had previously had some traffic
3 accidents while on duty and the policy with our department
4 is if you have three or more accidents within a year period
5 or it's also a point system that you can -- it's not 09:54
6 discipline but what they'll do with the captain's
7 discretion he'll either put you at desk assignment or have
8 you sit shotgun with a radio car partner which you're
9 basically the bookman.

10 So in my case I had desk assignment for six 09:55
11 months and after that time was up then I was back in the
12 field, and I would generally -- usually I'd be in a two-man
13 car preassigned, but if I was in any single man car, I
14 would check with the supervisors and see if it was okay to
15 jump in with another partner. That way I would avoid if I 09:55
16 got in another accident potentially of being reassigned to
17 desk duty.

18 Q The accidents, were any of them determined to be
19 your fault?

20 A The three in question were -- they were 09:55
21 considered preventible.

22 Q So you didn't want to have a fourth accident.

23 A That's correct.

24 Q Because then you might up being assigned to a
25 desk job. 09:55

EXHIBIT

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DONALD HUNTER, individually)
and as successor in interest)
to ANTOINE HUNTER deceased;)
etc, et al.,)
Plaintiffs,)
vs.)
COUNTY OF LOS ANGELES; et al.,)
Defendants.)

CASE NO. CV 14-09482-GHK

VIDEOTAPED DEPOSITION OF
DEPUTY GREGORY RODRIGUEZ
WOODLAND HILLS, CALIFORNIA
SEPTEMBER 28, 2015

ATKINSON-BAKER, INC.
COURT REPORTERS
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www.depo.com

REPORTED BY: KIMBERLY A. THORNTON, CSR NO. 11994

FILE NO.: A90ABBD

1 THE VIDEOGRAPHER: I'm Scott Schiff, your 01:27
2 videographer, and I represent Atkinson-Baker, Incorporated,
3 of Glendale, California. I'm not financially interested in
4 this action, nor am I a relative or employee of any
5 attorney of any of the parties. The date is September 28, 01:27
6 2015. The time is 1:27 P.M. This deposition is taking
7 place at 21800 Burbank Boulevard in Woodland Hills,
8 California. This is case number CV 14-09482-GHK entitled
9 "Donald Hunter, et al., vs. County of Los Angeles, et al."
10 The deponent is Gregory Rodriguez. 01:28
11 This deposition is being taken on behalf of
12 plaintiffs. Your court reporter is Kim Thornton.
13 Counsel, please introduce themselves for the
14 record.
15 MR. GALIPO: Dale Galipo for some of the plaintiffs. 01:28
16 MR. SEABAUGH: Thomas Seabaugh for the same
17 plaintiffs.
18 MR. CARRAZCO: Angel Carrazco for other plaintiffs.
19 MR. KIZZIE: Antonio Kizzie for all defendants.
20 01:28
21 GREGORY RODRIGUEZ,
22 having first been duly sworn, was examined
23 and testified as follows:
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25 /// 01:28

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EXAMINATION

01:28

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01:29

BY MR. GALIPO:

Q Can you please state your name.

A Yes. Greg Rodriguez. G-r-e-g last name
R-o-d-r-i-g-u-e-z.

Q Have you ever your deposition taken before?

A Yes, sir, I have.

Q On how many occasions?

A Once, sir.

Q Is that work related?

A Yes, sir.

Q What was it regarding?

A Deputy-involved shooting.

Q Were you the shooter in that case or one of the
shooters?

A Yes, sir, I was.

Q When did that shooting take place?

A May.

Q What year?

A May 23 of 2013.

Q And the shooting we're here to talk about, when
did that shooting take place?

A June 24 of 2014.

Q So about 13 months later?

A That's correct.

EXHIBIT

C

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A PROFESSIONAL LAW CORPORATION

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April 26, 2016

VIA FAX

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21800 Burbank Boulevard, Suite 310
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Fax (818) 347-4118

RE: Estate of Antoine D. Hunter v. COLA
Case No. CV14-09482GHK (MANx)
Our File No. 214-015

Gentlemen:

This correspondence serves to respond to your letters dated March 11, 2016 and April 18, 2016 and to meet and confer regarding Defendants' intended motions in limine.

Defendants' Intended Motions in Limine

Defendants intend to move in limine to exclude the following items of evidence/topics:

- 1) Deputy Gregory Rodriguez's past unrelated lawsuit/shooting, complaints and/or Internal Affairs investigation;
- 2) Deputy Timothy Lee's past unrelated lawsuit, complaints, traffic accidents and/or Internal Affairs investigation.

It is our position that the above items of evidence are irrelevant, inadmissible character evidence, misleading/confusing to the jury and more prejudicial than probative.

- 3) Argument that the number of gunshots is per se excessive.

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Direct all correspondence to LA office

JENNIFER R. JACOBS
Special Counsel

RANDALL H. KENNON
Special Counsel

AUDREY C. FONG
Special Counsel

SAMUEL E. CHILAKOS
Special Counsel

It is our position that such argument misleads the jury and misstates the law in Plumhoff v. Rickard (2014) 134 S.Ct. 2012.

4) Bifurcation of the trial into the liability and damages phase.

Considering the law in Plumhoff v. Rickard (2014) 134 S.Ct. 2012, it is our position that the trial in this matter should be bifurcated with liability tried separate and apart from damages, punitive damages and Monell claims. If Deputy Rodriguez was objectively reasonable in using deadly force against Mr. Hunter in the first place, the fact that there was an unarmed passenger in the car (Mr. Evans) and the nature and extent of Mr. Evans, Ms. Willis and Mr. D. Hunter's injuries would be irrelevant. Phase 1 will address the issue of liability of the Defendant Officers and the predicate question about punitive damages. Phase 2, if necessary, would address the issues of Monell liability, causation, nature and extent of injuries/damages, amount of compensatory damages and amount of punitive damages. This would be most efficient and fair to the time and resources of all parties.

5) Exclude any reference to police use of force events in the national news (Ferguson, Gardner, Ford, etc.).

Such reference would be unfairly prejudicial, inflammatory and irrelevant.

6) Motion to define the parameters of the Monell claim and an offer of proof as to these causes of action.

If the motion for summary judgment is not successful, this will be necessary to ensure no unfair surprise at trial.

Please advise if you would stipulate to any of the above motions in limine.

Plaintiffs' Motions in Limine No. 1 through 5

In short, Defendants will oppose each of Plaintiffs' motions in limine except Plaintiffs' motion in limine No. 4 regarding collateral sources. At least one of the deputies saw a gun and the other, I believe, suspected a gun in the vehicle. It is our position that the possession of the gun, drugs, gang affiliation and prior felony convictions are relevant to explain Mr. Hunter's and/or Mr. Evans' intent and motives as well as the deputies' training and actions. Regarding prior felony and/or misdemeanor convictions, it is our position that they are relevant and admissible to the extent they bear on truthfulness and the nature of Mr. Donald Hunter and Ms. Martha Willis' damages and relationship with Mr. Antoine Hunter. Regarding Defendants' medical expert, we believe he should be permitted considering new issues and opinions arose during the depositions of Plaintiffs' medical experts.

Considering the substantial distances between our mutual offices (Woodland Hills, Downtown LA and Tustin), it may be best if we teleconference and/or discuss at the upcoming mediation. Should you have any questions, please do not hesitate to contact me.

Sincerely,

IVIE, McNEILL & WYATT


ANTONIO K. KIZZIE

Send Result Report



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FACSIMILE TRANSMITTAL SHEET

TO: Humberto Guizar Kent Henderson	FROM: Antonio K. Kizzie, Esq.
COMPANY: Guizar, Henderson, et al.	DATE: 4/26/2016
FAX NUMBER: (714) 541-8601	TOTAL NO. OF PAGES, INCLUDING COVER: 3
TO: Dale K. Galipo Law Offices of Dale Galipo (818) 347-4118	REFERENCE NUMBER: 214-015
RE: Hunter, et al. v. County of Los Angeles, et al.	GENERAL NUMBER: (213) 489-0028, ext. 106

PROMPT
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NOTES/COMMENTS: LETTER DATED APRIL 26, 2016

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