

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Hightower v. County of San Diego

Hightower · No. 24-cv-1152-RSH-MSB · Decided March 14, 2025

SUMMARY

The United States District Court for the Southern District of California grants the County of San Diego’s motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). The court concludes that the complaint does not adequately plead deliberate indifference claims against the Doe defendants or the County under 42 U.S.C. § 1983, including a Monell claim based on policy, custom, or inadequate training. The order also addresses the factual and pleading deficiencies relevant to the plaintiffs’ medical-care allegations.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Robert S. Huie
JURISDICTION	United States District Court for the Southern District of California
DECIDED	March 14, 2025
DOCKET	24-cv-1152-RSH-MSB
DISPOSITION	other
PROCEDURAL POSTURE	Defendant County of San Diego moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the complaint for failure to state a claim. The court granted the motion and dismissed the claims, allowing plaintiffs fourteen days to file a second amended complaint.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and construes the pleadings in the light most favorable to the nonmoving party, but need not accept legal conclusions couched as factual allegations. The complaint must contain sufficient factual matter to state a claim that is plausible on its face.
PRECEDENTIAL VALUE	unpublished_nonprecedential
PARTIES	Clarence Hightower, Danielle Hightower v. County of San Diego, Does 1-30

TOPICS

motions to dismiss

section 1983

prisoners rights

municipal liability

civil procedure

PRACTICE AREAS

civil rights

constitutional law

prisoner medical care

municipal liability

civil procedure

QUESTIONS PRESENTED

1. Whether the complaint adequately pleaded deliberate indifference to serious medical needs under the Eighth Amendment against the Doe defendants.
2. Whether the complaint adequately pleaded municipal liability under Monell based on a County policy, custom, practice, failure to train, or failure to supervise.
3. Whether the alleged constitutional violation sufficiently supported a claim under the California Bane Act.
4. Whether the complaint adequately pleaded negligence against Doe defendants responsible for providing medical care to a prisoner.
5. Whether the loss-of-consortium claim could proceed when the underlying negligence claim failed.
6. Whether plaintiffs should be granted leave to amend.

HOLDINGS

1. A court may dismiss claims against unidentified Doe defendants sua sponte, and plaintiffs must allege specific facts showing how each particular Doe defendant violated their rights. Because plaintiffs did not identify specific conduct by particular Doe defendants, the claims were insufficiently pleaded.
2. To state an Eighth Amendment deliberate-indifference claim, a prisoner must adequately allege both an objectively serious medical need and that the defendant subjectively knew of and disregarded an excessive risk to the prisoner's health. Plaintiffs failed to plead sufficient facts showing defendants' actual knowledge of a substantial risk, an actionable delay in surgery, or that the delay caused the alleged harm.
3. Plaintiffs failed to state a Monell claim because they did not plausibly allege a County policy, custom, practice, failure to train, or failure to supervise that was deliberately indifferent to constitutional rights and the moving force behind a constitutional violation.
4. The Bane Act claim failed because plaintiffs did not adequately plead the underlying constitutional violation. The Bane Act does not itself provide substantive constitutional protections and requires a viable constitutional violation, together with the requisite specific intent.
5. Plaintiffs failed to state negligence claims against Does 1-14 because they did not plausibly allege when or how much earlier surgery was required, defendants' actual knowledge of a substantial risk, or that a treatment delay caused harm. The loss-of-consortium claim also failed because it is derivative of an underlying tortious injury, and the negligence claim failed.

6. Leave to amend was appropriate because the pleading deficiencies could potentially be cured by alleging additional facts.

KEY QUOTATIONS

“Plaintiffs do not allege when surgery became medically necessary or constitutionally required.” (at 8)

“Plaintiffs fail show a “custom [that is] so ‘persistent and widespread’ that it constitutes a ‘permanent and well settled city policy,” as opposed to “[i]solated or sporadic incidents, [which] will not support Monell liability against a municipality.”” (at 10)

FACTUAL BACKGROUND

Clarence Hightower was incarcerated in the San Diego County jail beginning in December 2022 while suffering from a cancerous lung tumor and later shoulder and back injuries. Plaintiffs alleged that jail personnel delayed lung surgery and failed to provide adequate treatment for the other injuries, resulting in worsening medical conditions. Hightower underwent lung surgery in July 2023 and was released from custody in October 2023. Plaintiffs alleged that the County maintained policies, customs, and inadequate training that caused the constitutional violations, but did not plead specific facts tying particular defendants or prior incidents to the alleged misconduct.

PROCEDURAL HISTORY

Plaintiffs filed suit on July 3, 2024, asserting claims under 42 U.S.C. § 1983, the California Bane Act, negligence, and loss of consortium against the County and unidentified Doe defendants. The County moved to dismiss on October 3, 2024. After briefing, the court granted the motion, dismissed the federal, Bane Act, negligence, and loss-of-consortium claims identified in the order, and granted leave to amend.

DISPOSITION

other

CASES CITED

- Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 557, 570 (2007)
- Moss v. U.S. Secret Serv., 572 F.3d 962, 969 (9th Cir. 2009)
- Manzarek v. St. Paul Fire & Marine Ins. Co., 519 F.3d 1025, 1031 (9th Cir. 2008)
- Tabi v. Doe No. 1, No. EDCV 18-714 DMG(JC), 2019 WL 4013444, at *5 (C.D. Cal. Aug. 26, 2019)
- Staggs v. Doctor's Hosp. of Manteca, Inc., No. 2:11-cv-00414-MCE-KJN, 2012 WL 5012268, at *11 (E.D. Cal. Oct. 16, 2012)
- Lomeli v. Cty. of San Diego, 637 F. Supp. 3d 1046, 1058 (S.D. Cal. 2022)
- Segura v. City of La Mesa, 647 F. Supp. 3d 926, 941 (S.D. Cal. 2022)

- Keavney v. Cty. of San Diego, No. 3:19-cv-01947-AJB-BGS, 2020 U.S. Dist. LEXIS 128512, at *9 (S.D. Cal. July 20, 2020)
- Barren v. Harrington, 152 F.3d 1193, 1194 (9th Cir. 1998)
- Conn v. Gabbert, 526 U.S. 286, 290 (1999)
- Crumpton v. Almy, 947 F.2d 1418, 1420 (9th Cir. 1991)
- Anderson v. Warner, 451 F.3d 1063, 1067 (9th Cir. 2006)
- Estelle v. Gamble, 429 U.S. 97, 102, 104-06 (1976)
- Colwell v. Bannister, 763 F.3d 1060, 1066 (9th Cir. 2014)
- Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006)
- Hallett v. Morgan, 296 F.3d 732, 744 (9th Cir. 2002)
- Toguchi v. Chung, 391 F.3d 1051, 1057 (9th Cir. 2004)
- Farmer v. Brennan, 511 U.S. 825, 844 (1994)
- Hooker v. Gomez, No. 16-7019 HSG, 2019 WL 3973750, at *7 (N.D. Cal. Aug. 22, 2019)
- Wood v. Housewright, 900 F.2d 1332, 1334 (9th Cir. 1990)
- Wilhelm v. Rotman, 680 F.3d 1113, 1122 (9th Cir. 2012)
- Jackson v. McIntosh, 90 F.3d 330, 332 (9th Cir. 1986)
- Snow v. McDaniel, 681 F.3d 978, 988 (9th Cir. 2012)
- Shapley v. Nev. Bd. of State Prison Comm'rs, 766 F.2d 404, 406-07 (9th Cir. 1985)
- McGuckin v. Smith, 974 F.2d 1050, 1059-60 (9th Cir. 1992)
- WMX Techs., Inc. v. Miller, 104 F.3d 1133 (9th Cir. 1997)
- Monell v. Dep't of Soc. Servs., 436 U.S. 658, 694 (1978)
- Benavidez v. Cty. of San Diego, 993 F.3d 1134, 1153-54 (9th Cir. 2021)
- Dougherty v. City of Covina, 654 F.3d 892, 900 (9th Cir. 2011)
- Plumeau v. Sch. Dist. No. 40 Cnty. of Yamhill, 130 F.3d 432, 438 (9th Cir. 1997)
- Sanders v. City of Nat'l City, No. 20-CV-00085-AJB-BLM, 2020 WL 6361932, at *2 (S.D. Cal. Oct. 29, 2020)
- City of Canton v. Harris, 489 U.S. 378, 387-88 (1989)
- Trevino v. Gates, 99 F.3d 911, 918 (9th Cir. 1996)
- Oyenik v. Corizon Health Inc., 696 F. App'x 792, 794 (9th Cir. 2017)
- AE ex rel. Hernandez v. Cnty. of Tulare, 666 F.3d 631, 636-37 (9th Cir. 2012)
- McDade v. West, 223 F.3d 1135, 1141 (9th Cir. 2000)
- Seever v. City of Modesto, No. 1:21-cv-01373-JLT-EPG, 2022 WL 17418355, at *3 (E.D. Cal. Dec. 2, 2022)
- Turner v. City of Sacramento, 2022 WL 1608031, at *5 (E.D. Cal. May 20, 2022)
- McCoy v. City of Vallejo, No. 219CV001191, 2020 WL 374356, at *4 (E.D. Cal. Jan. 23, 2020)
- Ochoa v. City of San Jose, 2021 WL 7627630, at *6 (N.D. Cal. Nov. 17, 2021)
- Raudelunas v. City of Vallejo, 2022 WL 329200, at *8 (E.D. Cal. Feb. 3, 2020)
- Herd v. County of San Bernardino, 311 F. Supp. 3d 1157, 1168 (C.D. Cal. 2018)

- Leon v. 2017 WL 3232486, at *3
- Connick v. Thompson, 563 U.S. 51, 61, 63 (2011)
- Flores v. Cty. of L.A., 758 F.3d 1154, 1159 (9th Cir. 2014)
- Blankenhorn v. City of Orange, 485 F.3d 463, 484 (9th Cir. 2007)
- Estate of Mendez, 390 F. Supp. 3d 1189, No. 1:18-cv-01677-LJO-BAM, 2019 WL 2715615, at *13 (E.D. Cal. 2019)
- Lee v. City of Los Angeles, 250 F.3d 668, 681 (9th Cir. 2001)
- Estate of Davis v. City of N. Richland Hills, 406 F.3d 375, 383 (5th Cir. 2005)
- Cornell v. City & County of San Francisco, 17 Cal. App. 5th 766, 791-92 (Ct. App. 2017)
- Hughes v. Rodriguez, 31 F.4th 1211, 1224 (9th Cir. 2022)
- Reese v. Cty. of Sacramento, 888 F.3d 1030, 1043-44 (9th Cir. 2018)
- Cameron v. Craig, 713 F.3d 1012, 1023 (9th Cir. 2013)
- USAir v. United States Dep't of the Navy, 14 F.3d 1410, 1412 (9th Cir. 1994)
- LeFiell Mfg. Co. v. Superior Ct., 55 Cal. 4th 275, 284-85 (2012)
- Knappenberger v. City of Phoenix, 566 F.3d 936, 942 (9th Cir. 2009)
- Herman Family Revocable Tr. v. Teddy Bear, 254 F.3d 802, 805 (9th Cir. 2001)