

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ESTATE OF WILLIAM HAYDEN  
SCHUCK, et al.,

Plaintiffs,

v.

COUNTY OF SAN DIEGO, et al.,

Defendants.

Case No.: 3:23-cv-00785-DMS-AHG

**ORDER GRANTING IN PART AND  
DENYING IN PART PLAINTIFFS’  
MOTION FOR LEAVE TO  
CONDUCT LIMITED DISCOVERY  
TO ASCERTAIN DOE DEFENDANTS**

**[ECF No. 10]**

Estate of William Hayden Schuck et al v. County of San Diego et al

Doc: 58

Before the Court is Plaintiffs’ *Ex Parte* Motion for Leave to Conduct Limited Discovery to Ascertain “Doe” Defendants’ Identities. ECF No. 10. Plaintiffs ask the Court to permit them to propound special interrogatories prior to the Rule 26(f) conference, to identify approximately 22 unnamed defendants. *Id.* at 8–9. For the reasons set forth below, the Court **GRANTS IN PART** and **DENIES IN PART** Plaintiffs’ motion.

1                   **I. BACKGROUND**

2                   Plaintiffs Sabrina Schuck and Timothy Schuck (“Plaintiffs”), the parents of deceased  
3 Hayden Schuck (“Hayden”), filed a Complaint<sup>1</sup> against the County of San Diego  
4 (“County”), Correctional Healthcare Partners (“CHP”), various individual defendants,  
5 “Defendant Deputy Does [4]<sup>2</sup>-14,” “Defendant Medical Provider Does 2-6,”<sup>3</sup> and  
6 “Defendant Deputy Supervisor Does 1-6.” ECF No. 25 at ¶¶ 12, 24, 26–31. Plaintiffs allege  
7 “causes of action under 42 U.S.C. § 1983 for Defendants’ deliberate indifference to  
8 Hayden’s serious medical needs as well as state law claims for violations of the Bane Act,  
9 failure to summon medical care, wrongful death, negligence, and negligent training and  
10 supervision.” ECF No. 10 at 2; *see* ECF No. 25.

11                   In the instant motion, Plaintiffs seek leave to conduct discovery prior to the  
12 Rule 26(f) conference to learn the Doe Defendants’ identities. ECF No. 10. Specifically,  
13 Plaintiffs seek an order permitting them to propound eleven special interrogatories on the  
14 County. *Id.* at 8–9. The County and CHP oppose Plaintiffs’ motion. ECF Nos. 23, 24. This  
15 Order follows.

16                   **II. LEGAL STANDARD**

17                   A party is generally not permitted to obtain discovery before the parties have  
18

---

19  
20 <sup>1</sup> On April 28, 2023, Plaintiffs filed their original complaint. ECF No. 1. On June 2, 2023,  
21 Plaintiffs filed their amended complaint. ECF No. 25; *see* ECF No. 20 (both parties  
22 consented to the filing of the amended complaint). Though the instant motion was filed  
23 before the amended complaint, the Court will consider the operative amended complaint  
in its analysis.

24 <sup>2</sup> Defendant Deputy Does 1, 2, and 3 have been identified in the amended complaint. ECF  
25 No. 25 at ¶¶ 18–20 (“Defendant Deputy Thomas Mace [was] formerly Defendant Deputy  
26 Doe 1[,], Defendant Deputy Jeff Amado [was] formerly Defendant Deputy Doe 2)[, and]  
Defendant Deputy Sven Soderberg [was] formerly Defendant Deputy Doe 3”).

27 <sup>3</sup> Defendant Medical Provider Doe 1 has been identified in the amended complaint. ECF  
28 No. 25 at ¶ 17 (“Defendant Jennifer Vivona RN [was] formerly Defendant Medical  
Provider Doe 1”).

1 conferred pursuant to Federal Rule of Civil Procedure 26(f). FED. R. CIV. P. 26(d)(1) (“A  
2 party may not seek discovery from any source before the parties have conferred as required  
3 by Rule 26(f), except ... by stipulation, or by court order.”). However, courts have made  
4 exceptions to allow limited early discovery when there is good cause. *Rovio Entm’t Ltd. v.*  
5 *Royal Plush Toys, Inc.*, 907 F. Supp. 2d 1086, 1099 (N.D. Cal. 2012). (“In the Ninth  
6 Circuit, courts use the good cause standard to determine whether discovery should be  
7 allowed to proceed prior to a Rule 26(f) conference.”). Good cause exists “where the need  
8 for expedited discovery, in consideration of the administration of justice, outweighs the  
9 prejudice to the responding party.” *Semitoool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D.  
10 273, 276 (N.D. Cal. 2002). In determining whether a party has shown good cause to grant  
11 expedited discovery, courts “commonly consider[]” the following non-exhaustive factors:  
12 “(1) whether a preliminary injunction is pending; (2) the breadth of the discovery requests;  
13 (3) the purpose for requesting the expedited discovery; (4) the burden on the defendants to  
14 comply with the requests; and (5) how far in advance of the typical discovery process the  
15 request was made.” *Am. LegalNet, Inc. v. Davis*, 673 F. Supp. 2d 1063, 1067 (C.D. Cal.  
16 2009) (internal quotation omitted); *see, e.g., Synopsys, Inc. v. AzurEngine Techs., Inc.*, 401  
17 F. Supp. 3d 1068, 1076–77 (S.D. Cal. 2019) (applying the same factors); *Palermo v.*  
18 *Underground Solutions, Inc.*, No. 12cv1223-WQH-BLM, 2012 WL 2106228, at \*2 (S.D.  
19 Cal. June 11, 2012) (same).

20 Consistent with this generally recognized exception to Rule 26(f), the Ninth Circuit  
21 has held that ““where the identity of the alleged defendant[] [is] not [] known prior to the  
22 filing of a complaint[,] the plaintiff should be given an opportunity through discovery to  
23 identify the unknown defendants, unless it is clear that discovery would not uncover the  
24 identities, or that the complaint would be dismissed on other grounds.”” *Wakefield v.*  
25 *Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (brackets in original) (quoting *Gillespie v.*  
26 *Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)). Thus, in cases where plaintiffs are seeking to  
27 learn the identity of Doe defendants through early discovery, courts examine whether the  
28 plaintiff (1) identifies the Doe defendant with sufficient specificity so that the court can

1 determine that the defendant is a real person or entity who can be sued in federal court; (2)  
2 describes all previous steps taken to identify and locate the defendant; (3) establishes that  
3 the suit could withstand a motion to dismiss; and (4) establishes that the discovery  
4 requested is likely to lead to identifying information about the defendant that will permit  
5 service of process. *Columbia Ins. Co. v. Seescandy.com*, 185 F.R.D. 573, 577 (N.D. Cal.  
6 1999). These factors are considered to ensure the expedited discovery procedure “will only  
7 be employed in cases where the plaintiff has in good faith exhausted traditional avenues  
8 for identifying a civil defendant pre-service, and will prevent use of this method to harass  
9 or intimidate.” *Id.*

### 10 III. PARTIES’ POSITIONS

11 Plaintiffs seek leave of Court to propound the following Special Interrogatories on  
12 the County:

13 1. Identify the Sheriff’s Department deputies whose duties included  
14 summoning medical or mental health care, observing any audio or video  
15 monitors, and/or conducting wellness or safety checks on Hayden in any  
16 housing unit at the San Diego County Jail in which Hayden was housed from  
17 March 10, 2022 to March 16, 2022.

18 ...<sup>4</sup>

19 5. Identify the Sheriff’s Department deputies who worked shifts in  
20 the booking unit from March 10, 2022 to March 15, 2022.

21 6. Identify the Sheriff’s Department deputies who worked shifts in  
22 housing unit “7D” or “Module D” on the seventh floor from March 15, 2022  
23 to March 16, 2022.

---

24 <sup>4</sup> Plaintiffs propose eleven special interrogatories in their motion. ECF No. 10 at 8–9.  
25 However, three of the interrogatories have since been answered by other means. *Compare*  
26 *Id.* (instant motion, proposing the following interrogatories: “Identify Sheriff’s Department  
27 Deputy # 4324. [] Identify Sheriff’s Department Deputy # 4193. [] Identify Sheriff’s  
28 Department Deputy # 3397.”) *with* ECF No. 23 at 8 (the County’s opposition, pledging to  
provide Plaintiffs with the names of the three deputies whose badge numbers were listed  
in the complaint) *and* ECF No. 25 at ¶¶ 18–20 (amended complaint, naming deputies  
#4324, #4193, and #3397). Thus, the Court **DENIES** Plaintiffs’ motion as to Special  
Interrogatory Nos. 2, 3, and 4.

1           7. Identify the Sheriff’s Department deputies who transported and  
2 escorted Hayden to and from court, holding cells, and transportation vehicles  
3 on March 15, 2022.

4           8. Identify the Sheriff’s Department deputies who were responsible  
5 for training all deputies identified in Special Interrogatories 1-7.

6           9. Identify the Sheriff’s Department deputies who were responsible  
7 for supervising all deputies identified in Special Interrogatories 1-7.

8           10. Identify the County employees, agents, or contractors working  
9 within the Sheriff’s Department Medical Services Division from March 10,  
10 2022 to March 16, 2022 who were responsible for Hayden’s medical care,  
11 including follow-up assessments and referrals for further treatment, whether  
12 or not they actually provided Hayden with any medical care.

13           11. Identify the “Qualified Mental Health Provider” referenced  
14 within Hayden’s medical records, and described in the Complaint, as having  
15 evaluated Hayden during the booking process on or about March 10, 2022.

16 ECF No. 10 at 8–9. Plaintiffs contend that these Special Interrogatories are narrowly  
17 tailored and are “highly likely to result in learning the unknown defendants’ identities.” *Id.*  
18 at 9. Plaintiffs argue that these discovery requests are not burdensome to the County  
19 because it has already gathered the information. *Id.* at 10. For example, Plaintiffs note that  
20 the County directed and participated in multiple investigations regarding Hayden’s death  
21 by the Sheriff’s Homicide Unit, Critical Incident Review Board, County Medical  
22 Examiner’s Department, and Citizen’s Law Enforcement Review Board. *Id.* at 10–11.

23           Plaintiffs argue that the Doe Defendants are described with the requisite specificity  
24 in the complaint, noting that Plaintiffs alleged “all of the details that the County would  
25 need to identify the defendants—Hayden’s identity, the jail Hayden was booked into, the  
26 date of his booking, the date of his death, and his housing locations within the jail according  
27 to the Medical Examiner’s report, for example.” *Id.* at 6. Plaintiffs explain that they  
28 submitted a Public Records Act request, which was denied, and attempted to contact the  
County’s counsel to discuss the issue, to no avail. *Id.* at 6–7. Plaintiffs also searched the  
reports and press releases issued by the County, Sheriff’s Department, and Medical  
Examiner for names of those involved, but none were listed. *Id.* at 7. Plaintiffs contend that  
their claims against the Doe Defendants can withstand a motion to dismiss because each

1 Doe Defendant “owed a duty to Hayden as deputies, supervisors, and medical providers  
2 tasked with his health and safety[ and e]ach violated their duties[.]” *Id.*

3 Plaintiffs also argue that expedited discovery is warranted in this case to avoid  
4 irreparable harm. *Id.* at 9. If the Doe Defendants are not identified within 90 days of the  
5 filing of the original complaint, *i.e.*, by July 27, 2023, Plaintiffs risk their newly-amended  
6 complaint not relating-back, potentially leading to Plaintiffs’ state law tort claims being  
7 time-barred. *Id.* at 9–10.

8 The County, joined by CHP, opposes Plaintiffs’ request. ECF Nos. 23, 24. The  
9 County characterizes Plaintiffs’ request as “seek[ing] to invade the privacy of groups of  
10 deputies and medical providers by obtaining their identities and publicly naming them in  
11 this lawsuit without waiting to conduct more thorough discovery in the ordinary course[.]”  
12 ECF No. 23 at 5. The County argues that identifying and naming the Doe Defendants  
13 “invade[s] the privacy of those individuals and intrude[s] on the lives, security and  
14 resources of their families.” *Id.*

15 The County also contends that Plaintiffs’ allegations against the Doe Defendants  
16 cannot withstand a motion to dismiss.<sup>5</sup> ECF No. 23 at 6. The County argues that Plaintiffs  
17 improperly lump all of the Doe Defendants together, when group liability is impermissible  
18 under § 1983. *Id.* at 6–7. The County argues that Plaintiffs do not allege specific facts about  
19 each individual Doe Defendant that would give rise to liability, since the grouped  
20 allegations against the Doe Defendants in the complaint encompass individuals who had  
21 no reason to know of Hayden’s need for immediate medical care, had no roles with respect  
22 to his housing, or had no interactions with, or responsibilities to, him. *Id.* at 7.

#### 23 **IV. DISCUSSION**

24 To determine whether good cause exists, generally, for early discovery, courts  
25  
26

---

27 <sup>5</sup> The Court notes that the County and its related individual defendants did not file a motion  
28 to dismiss and, instead, filed an answer. ECF No. 28.

1 consider the following:<sup>6</sup> “(1) whether a preliminary injunction is pending; (2) the breadth  
2 of the discovery requests; (3) the purpose for requesting the expedited discovery; (4) the  
3 burden on the defendants to comply with the requests; and (5) how far in advance of the  
4 typical discovery process the request was made.” *Am. LegalNet*, 673 F. Supp. 2d at 1067  
5 (internal quotation omitted). Here, the Court finds that four of the five factors clearly  
6 support early discovery. Upon review of the Special Interrogatories, the Court finds that  
7 Plaintiffs have proposed narrowly tailored discovery requests, for the legitimate purpose  
8 of identifying unnamed defendants before the statute of limitations runs. The Court is  
9 persuaded that the County readily has the information sought, since “the County is required  
10 to keep records regarding their employees’ shifts and logs of safety checks[,]” and had  
11 participated in multiple investigations. ECF No. 10 at 9. Of note, neither the County nor  
12 CHP argued in their oppositions that any burden exists for gathering the requested  
13 information. Also, Plaintiffs’ request is not made too far in advance of the typical discovery  
14 process. Since the County and many individual Defendants filed their answer (ECF No.  
15 28), the Early Neutral Evaluation Conference and Case Management Conference will be  
16 promptly set by the undersigned and that order will include the requirement that the parties  
17 meet and confer pursuant to Rule 26(f). Thus, the Court finds good cause, generally.

18 Next, the Court will address whether there is good cause for expedited discovery for  
19

---

20  
21 <sup>6</sup> The County represents that the factors the Court should consider are (1) identifying the  
22 Doe Defendants with specificity, (2) making a good faith effort to identify the Doe  
23 Defendants, and (3) being able to withstand a motion to dismiss, quoting *Palermo*.  
24 However, upon review of the case, *Palermo* does not include any of the County’s quoted  
25 material and, in fact, it utilizes the same standard Plaintiffs reference. *Compare* ECF No.  
26 23 at 5–6 (attributing factors paraphrased from *Columbia Ins. Co.*, as quotations from  
27 *Palermo*) with *Palermo*, 2012 WL 2106228, at \*2 (never mentioned *Columbia Ins. Co.*  
28 factors and instead explained: “In considering whether good cause exists, factors courts  
may consider include “(1) whether a preliminary injunction is pending; (2) the breadth of  
the discovery request; (3) the purpose for requesting the expedited discovery; (4) the  
burden on the defendants to comply with the requests; and (5) how far in advance of the  
typical discovery process the request was made.”).

1 the specific purpose of ascertaining the identities of the Doe Defendants. The Court will  
2 examine whether Plaintiffs (1) identify the Doe Defendants with sufficient specificity so  
3 that the Court can determine that the defendant is a real person or entity who can be sued  
4 in federal court; (2) describe all previous steps taken to identify and locate the defendants;  
5 (3) establish that the suit could withstand a motion to dismiss; and (4) establish that the  
6 discovery requested is likely to lead to identifying information about the defendants that  
7 will permit service of process. *See Columbia Ins. Co.*, 185 F.R.D. at 578–80.

8         Though the County does not address the first, second, or fourth factors in its  
9 opposition, the Court will briefly address them for completeness. As to the first and fourth  
10 factors, the Court finds that Plaintiffs describe the Doe Defendants with sufficient  
11 specificity that they may be identified and then served, by referencing the dates and  
12 locations of the incidents. ECF No. 25 at ¶¶ 27–31, 56, 58, 121–22, 147–48, 151; *see Raiser*  
13 *v. San Diego Cnty.*, No. 19cv751-GPC-KSC, 2019 WL 4675773, at \*2 (S.D. Cal. Sept. 25,  
14 2019) (finding plaintiff sufficiently and specifically identified unnamed deputies where  
15 plaintiff “identifie[d] the times, dates, and locations” of stops). As to the second factor, the  
16 Court finds that Plaintiffs made diligent, good faith efforts to identify the Doe Defendants,  
17 by submitting a Public Records Act request, contacting the County’s counsel, and  
18 searching reports and press releases. ECF No. 23 at 6–7; *see Raiser*, 2019 WL 4675773, at  
19 \*2 (plaintiff made a good faith effort to identify the unnamed deputies when he contacted  
20 the clerk in the Records Department of the San Diego County Sheriff).

21         As to the third factor, the Court is not persuaded by the County’s contention that  
22 Plaintiffs’ allegations against the Doe Defendants could not withstand a motion to dismiss  
23 and do not “contain sufficient factual matter, accepted as true, to ‘state a claim to relief that  
24 is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl.*  
25 *Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The County cites to *Finefeuiaki v. Maui*  
26 *Cnty. Corrs. Ctr. Staff & Affiliates*, No. 18cv249-DKW-KJM, 2018 WL 3580764, at \*6  
27 (D. Haw. July 25, 2018) for the proposition that, to withstand a motion to dismiss, a  
28 plaintiff must allege specific facts regarding how each particular doe defendant violated



1 his rights. ECF No. 23 at 7–8. However, though the court in *Finefeuiaki* noted that the  
2 plaintiff “adequately identifies the MCCC Staff as Doe Defendants for the purposes of  
3 commencing this action, because he clearly refers to specific MCCC Staff who took action  
4 on identified days in identified places,” the court was referring to staff in the plural form,  
5 because the plaintiff in fact lumped groups of prison staff together in his complaint.  
6 *Finefeuiaki*, 2018 WL 3580764, at \*6; *see Finefeuiaki*, Complaint, at 6 (June 25, 2018)  
7 (“the backup staffs came down to contain these three inmates.... No staffs and its affiliates  
8 closed my door”); *id.* at 7 (“staffs and affiliates, they were writing reports about my incident  
9 ... I asked to be housed under the camera, I was denied”); *id.* at 8 (“I was denied by staff  
10 to be in a safe and proper haven.... Finally back up staffs came running to pull [the] inmate  
11 away.... I was set up to be attacked by ignoring my request for safety”). Here, the Court  
12 finds that Plaintiffs’ groupings are likewise descriptive enough to withstand a motion to  
13 dismiss. For example, Plaintiffs allege that one group of Doe Deputies were those “who  
14 were responsible for transporting Hayden to and from court, holding cells, and  
15 transportation vehicles on March 15, 2022,” and another group of Doe Deputies were those  
16 “who were responsible for summoning medical or mental health care, observing any audio  
17 or video monitors, or conducting wellness or safety checks on Hayden in any housing unit  
18 in which Hayden was housed from March 10, 2022 to March 16, 2022.” ECF No. 25 at ¶¶  
19 27–28. Plaintiffs allege that Doe Deputy Supervisors were those who were responsible for  
20 training and supervising the Doe Deputies. *Id.* at ¶ 30. Plaintiffs allege that the Doe Medical  
21 Providers were those “who were responsible for Hayden’s medical care, including [mental  
22 health and intake,] follow-up assessments and referrals for further treatment, whether or  
23 not they actually provided Hayden with any medical care.” *Id.* at ¶ 31. Further, Plaintiffs  
24 point to specific events. *Compare Keavney v. Cnty. of San Diego*, No. 19cv1947-AJB-  
25 BGS, 2020 WL 4192286, at \*4–\*5 (S.D. Cal. July 20, 2020) (*sua sponte* dismissing claims  
26 against doe defendants pursuant to *in forma pauperis* screening because plaintiff “fail[ed]  
27 to even minimally explain how any of the unidentified parties he seeks to sue personally  
28 caused a violation of his constitutional rights.”) *with* ECF No. 25 at ¶ 121 (Doe Deputies

1 witnessed Hayden slumped down the wall and losing balance but left him in his cell without  
2 summoning medical attention) *and id.* at ¶ 122 (between 8:00 p.m. and 9:00 p.m., two Doe  
3 Deputies escorted Hayden to a cell) *and id.* at ¶¶147, 148, 151 (Doe Deputies failed to  
4 perform timely or adequate wellness checks and violated internal policies) *and id.* at ¶¶ 56,  
5 58 (Doe Medical Provider was present during the “receiving screening” process and knew  
6 or should have known that Hayden was under the influence of drugs or suffering  
7 withdrawal). Thus, the Court finds that Plaintiffs have “made some showing that an act  
8 giving rise to civil liability actually occurred.” *Columbia Ins. Co.*, 185 F.R.D. at 580. As  
9 such, the Court finds good cause for expedited discovery to ascertain the identities of the  
10 Doe Defendants.

11 Lastly, the Court will consider whether “the need for expedited discovery, in  
12 consideration of the administration of justice, outweighs the prejudice to the responding  
13 party.” *Semitoal*, 208 F.R.D. at 276. The Court finds that the irreparable harm of Plaintiffs  
14 being unable to preserve their rights and bring claims in this matter outweighs the County’s  
15 concern for the unnamed defendants’ privacy. Should the County believe a defendant was  
16 named in the lawsuit frivolously, without evidentiary support, the County has the ability to  
17 file an appropriate motion. FED. R. CIV. P. 11(b)(3) (by presenting a pleading to the Court,  
18 the filer certifies that “the claims [] are warranted by existing law” and “the factual  
19 contentions have evidentiary support or ... will likely have evidentiary support after a  
20 reasonable opportunity for further investigation”); FED. R. CIV. P. 12(b)(6) (failure to state  
21 a claim upon which relief can be granted). Plaintiffs, however, would have no recourse if  
22 their claims are found to be time-barred due to a failure to relate-back. Therefore, the  
23 balancing test likewise confirms that Plaintiffs’ motion should be granted.

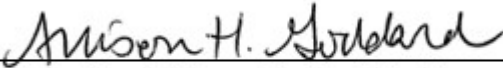
## 24 V. CONCLUSION

25 For the reasons set forth above, and for good cause shown, the Court **GRANTS IN**  
26 **PART** and **DENIES IN PART** Plaintiffs’ *Ex Parte* Motion for Leave to Conduct Limited  
27 Discovery to Ascertain Doe Defendants’ Identities. ECF No. 10. Plaintiffs’ Special  
28 Interrogatory Nos. 1, 5, 6, 7, 8, 9, 10, and 11 are deemed served as of the date of this order.

1 The County, and CHP to the extent the request is applicable, must serve responses on  
2 Plaintiffs no later than **June 30, 2023**.<sup>7</sup>

3 **IT IS SO ORDERED.**

4 Dated: June 16, 2023

5   
6 \_\_\_\_\_  
7 Honorable Allison H. Goddard  
8 United States Magistrate Judge  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

24 \_\_\_\_\_  
25 <sup>7</sup> Good cause exists to shorten the normal thirty-day deadline to respond, given that the  
26 Defendants have been aware of these requests for a substantial period of time, the  
27 information appears to be readily available to them, and Plaintiffs need sufficient time to  
28 review the information and seek leave to amend their complaint to add additional  
defendants. *See* FED. R. CIV. P. 33(b)(2) (time for responding to interrogatories may be  
shortened by court order).