

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

COREY DISMUKES, et al.)	
)	
Plaintiff,)	
)	
v.)	No. 11-CV-3345
)	
)	
DR. THOMAS BAKER, et al.,)	
)	
Defendants.)	

OPINION

SUE E. MYERSCOUGH, U.S. District Judge.

Plaintiff pursues claims arising from Defendants' refusal to surgically remove a large lipoma near the base of Plaintiff's head during Plaintiff's incarceration. The case is in the process of discovery.

Defendants move to dismiss count III—the vicarious liability claim against Wexford Health Sources, Inc. Defendants are correct that, as of this moment, Seventh Circuit controlling precedent clearly holds that, just like municipalities, private companies cannot be liable for employees' constitutional violations on a theory of respondeat superior. See *Hahn v. Walsh*, 762 F.3d 617 (7th Cir.

2014). Justice Hamilton urged the Seventh Circuit to revisit that holding, *Shields v. IDOC*, 746 F.3d 782 (7th Cir. 2014), but the Seventh Circuit has not done so. The Court allowed Plaintiff to include Count III for purposes of preserving the issue for appeal, but at this point Count III must be dismissed.

IT IS ORDERED:

- 1) Defendants' motion to dismiss Count III is granted (92).
- 2) A hearing on the remaining motions is set for 2:30 p.m. on January 8, 2015 by video conference. Local counsel may appear in person or by video conference.

ENTER: 12/29/2014
FOR THE COURT:

s/ Sue E. Myerscough
SUE E. MYERSCOUGH
UNITED STATES DISTRICT JUDGE