

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KENNETH BAILEY,

Plaintiff,

- v -

GEORGE PATAKI, et al.,

Defendants.
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: 08 Civ. 8563 (JSR)
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GEORGE BROOKS,

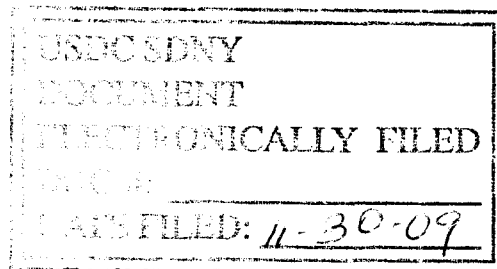
Plaintiff,

- v -

GEORGE PATAKI, et al.,

Defendants.
-----X
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: 08 Civ. 8665 (JSR)
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LOUIS MASSEI,

Plaintiff,

- v -

GEORGE PATAKI, et al.,

Defendants.
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: 08 Civ. 8923 (JSR)
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JORGE BURGOS, JR.,

Plaintiff,

- v -

GEORGE PATAKI, et al.,

Defendants.
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: 08 Civ. 8924 (JSR)
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ROBERT TROCCHIO,           :
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        Plaintiff,         :      08 Civ. 8925 (JSR)
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        - v -              :
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GEORGE PATAKI, et al.,    :
                            :
        Defendants.       :
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-----X
ROBERT WARREN,           :
                            :
        Plaintiff,         :      08 Civ. 9609 (JSR)
                            :
        - v -              :
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GEORGE PATAKI, et al.,    :      ORDER
                            :
        Defendants.       :
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JED S. RAKOFF, U.S.D.J.

The defendant officials in one or more of the above-captioned matters -- George Pataki, Sharon Carpinello, Glenn S. Goord, Paul Annetts, Dale Artus, James Conway, Leo E. Payant, Eileen Consilvio, Robert Dennison, and Jeffrey Tedford -- have each submitted an affidavit in which the affiant states that he or she has no first-hand knowledge of the particular facts and circumstances surrounding plaintiffs' involuntary civil commitments other than that, in the cases of defendants Annetts, Artus, Conway, Payant, and Tedford, they signed the applications for one or another plaintiff's commitment based on information provided by others. Based on these affidavits, the Court issued an Order dated November 1, 2009 quashing the plaintiffs' notices

to take the depositions of these defendant officials.

On November 9, 2009, plaintiffs submitted a motion seeking reconsideration of the Court's November 1, 2009 Order on the ground that depositions were necessary to determine the full scope of defendant officials' knowledge of the creation and/or implementation of the Sexually Violent Predator ("SVP") Initiative, which forms a basis for their alleged supervisory liability.¹ To assist the Court in reaching a decision regarding plaintiff's motion for reconsideration, the Court hereby directs defense counsel to submit to the Court by no later than December 7, 2009 an affidavit or declaration indicating, first, whether any of the aforementioned defendant officials intends to move for dismissal of the claims against him or her on grounds of qualified immunity, and if so, whether any part of that motion would include affidavits or testimony from said defendants and, second, whether defense counsel intends to call any of the defendant officials as witnesses at trial and, if so, the purpose(s) for which said defendants would be called.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
November 30, 2009

¹ Alternatively, plaintiffs' counsel has requested that the defendant officials be precluded from testifying at trial or any trial-related proceedings.