



1 offered as evidence regarding Monell liability. Nevertheless, it is the tentative  
2 view of the Court that the liability of the individual officers who allegedly  
3 committed constitutional torts cannot be decided via class action.

4 In the Court's view, this is consistent with Rule 23, Fed.R.Civ.P., which  
5 requires first that there be common issues of fact or law for all members of the  
6 class under subsection (a). As to the constitutional torts of the individual officers,  
7 it does not appear that this threshold is met. Furthermore, even if it could be met,  
8 class certification would require the Court to determine under Rule 23 that  
9 prosecuting the actions against the individual officers separately would create the  
10 risk of inconsistent or varying adjudications such that incompatible standards  
11 would be established for the party opposing the class, **or** that separate  
12 adjudications would dispose of the interests of those not parties to the  
13 adjudication or would substantially impair or impede their ability to protect their  
14 interests. These elements do not appear to be present either. Whether or not a  
15 plaintiff prevails against an individual officer in one case would not seem in any  
16 way to prejudice any of the parties to any other case, nor does it create a risk of  
17 subjecting defendant officers to inconsistent or varying adjudications through the  
18 application of incompatible standards. Thus, in respect to the conduct of the  
19 individual officers, these cases are no more amenable to class action  
20 determination than any Section 1983 case.

21 Having made these observations, the Court recognizes that it may have  
22 misread or overlooked class action allegations that purport to address the  
23 individual tort claims. Furthermore, the Court recognizes the possibility that there  
24 may be an argument to be made (one that has not occurred to the Court) for  
25 proceeding on the individual tort claims via class action. Accordingly, if any  
26 plaintiff is seeking to pursue the claims against the **individual defendant officers**  
27 by way of class action, each and every such plaintiff is to give notice to the Court  
28 of such intent on or before November 20, 2000, and to submit with such notice a

1 memorandum of points and authorities, not to exceed 10 pages, setting forth  
2 their class action theory and the authority supporting their right to proceed under  
3 such theory.

4 **(2) Qualified Immunity**

5 In its review of the pending "Ramparts" complaints and the answers  
6 thereto, the Court has not identified any case in which any individual officer is  
7 asserting the defense of qualified immunity on the ground that his conduct  
8 conformed to policies of the Los Angeles Police Department or some other  
9 municipal entity. Nevertheless, to ensure that the Court has not overlooked any  
10 such claim and to expedite the handling of these cases, the Court is hereby  
11 ordering defense counsel for **all individual officers** to notify the Court, on or  
12 before November 20, 2000, whether they intend to defend their case on the  
13 ground that their conduct was in conformity with a municipal policy. In that  
14 regard, any defendant so indicating must state the following:

15 (1) The policy on which the officer is relying for his defense;

16 (2) The date on which the policy was promulgated;

17 (3) The official or agency that promulgated the policy.

18 A non-response to this order will be deemed a statement that the non-responding  
19 individual officer is acknowledging that he is not claiming qualified immunity by  
20 conducting himself in accordance with municipal policy, and the officer will be  
21 precluded thereafter from raising such a defense.

22  
23 Dated: October 31, 2000

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25 \_\_\_\_\_  
26 Gary Allen Feess  
27 United States District Judge  
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