



FILED
ALAMEDA COUNTY

NOV 18 2015 *P*

By *[Signature]*
SIANTE DEWBERRY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

STEPHANIE STIAVETTI, et al,

Plaintiffs,

v.

PAMELA AHLIND, AS DIRECTOR OF THE
CALIFORNIA DEPARTMENT OF STATE
HOSPITALS, et al,

Defendants.

Case No. RG15-779731

ORDER DENYING MOTION OF
RESPONDENTS TO STAY DISCOVERY.

DATE: 11/18/15
TIME 1:30 PM
DEPT. 14

The motion of Defendants Pamela Ahlind as Director of the California Department of State Hospitals, et al (collectively "CDSH") to stay discovery came on for hearing on November 18, 2015, in Department 14 of this Court, the Honorable Evelio Grillo presiding. After consideration of the briefing and the argument, IT IS ORDERED: The motion of CDSH to stay discovery is DENIED.

STANDARD

The Court may stay a case in its entirety in the interest of justice. (C.C.P. 187; *Jordache Enterprises, Inc. v. Brobeck, Phleger & Harrison* (1998) 18 Cal.4th 739, 758 ["The case

1 management tools available to trial courts [includes] the inherent authority to stay an action
2 when appropriate”]; *Bailey v. Fosca Oil Co.*, (1963) 216 Cal.App.2d 813, 817 [“the power of a
3 court to stay proceedings ... was inherent at common law and is now vested in the superior courts
4 of this state”].)

5 More specifically, the Court may stay or phase discovery in the interest of justice.
6 (C.C.P. §§ 2017.020 and 2019.020(b).) The court exercises its discretion in deciding whether to
7 stay discovery based on the individual circumstances of each case and the reasons that suggest
8 the grant or denial of a request for a stay. (*Avant! Corp. v. Superior Court* (2000) 79
9 Cal.App.4th 876, 886 [trial court exercises discretion in determining whether to stay civil case
10 while criminal case is pending].)

11 The party seeking the protective order to stay discovery has the burden of showing good
12 cause for the order sought. (*Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255;
13 *Nativi v. Deutsche Bank National Trust Company* (2014) 223 Cal.App.4th 261, 318.)

14 ANALYSIS

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16 Plaintiffs bring this action asserting that the CDSH is violating the constitutional rights of
17 incompetent defendants by subjecting them to long waits after they are declared incompetent and
18 before they are admitted to state hospitals. Plaintiffs assert four causes of action (1) due process
19 violations under the California Constitution, (2) violation of the California constitutional right to
20 a speedy trial, (3) due process violations under the United States Constitution, and (4) a taxpayer
21 claim under CCP 526A based on the prior three claims.

22
23 Before the litigation commenced, Plaintiffs made a request for public records under the
24 California Public Records Act. (Gov. Code 6260, et seq. [the “CPRA”].) The CDSH provided
25 over 400 pages of documents. After filing the lawsuit, Plaintiffs served CDSH with
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1 interrogatories and document requests. (Tillman Dec., para 3-4.) It is unclear to what degree
2 there is an overlap between the public records produced under the CPRA and the documents and
3 information requested in the civil discovery.

4 The CDSH seeks a stay of all discovery on the grounds that (1) Defendants have filed a
5 demurrer and motion to strike asserting that Plaintiffs lack standing and the complaint is not
6 viable and (2) there are four related cases that present the same legal issues concerning the
7 timeframe under Penal Code 1370 for the admission of criminal defendants declared incompetent
8 to stand trial to the Department of State Hospitals. (Notice of related cases filed 10/1/15.)

9 The court will not stay all discovery simply because a party has filed a demurrer or
10 motion to strike. California law permits discovery to proceed while the pleadings develop.
11 (CCP 2025.210(b); 2030.020(b); 2031.020(b); *Budget Finance Plan v. Superior Court* (1973) 34
12 Cal.App.3d 794, 797-798.) Plaintiffs are entitled to discovery to develop their claims. (*Union*
13 *Mut. Life Ins. Co. v. Superior Court* (1978) 80 Cal.App.3d 1, 12. CDSH argues that *Terminals*
14 *Equipment Co. v. City and County of San Francisco* (1990) 221 Cal.App.3d 234, 247, stands for
15 the proposition that a court should stay discovery if a plaintiff has not filed a viable complaint
16 stating at least one triable cause of action. *Terminals* stands for the more modest propositions
17 that the court has the discretion to stay discovery and that on the facts of that case the trial court
18 did not abuse its discretion in staying discovery.
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21 On the specific facts of this case, the demurrer and motion to strike were filed on 10/1/15
22 and by stipulation of the parties the opposition is not due until 11/13/15. (Stipulation and order
23 of 9/18/15.) The court is not inclined to prejudge the merits of the demurrer and motion to strike
24 before Plaintiffs have filed their brief.
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1 The court will not stay all discovery simply because a party has filed a prior or
2 contemporaneous request for some of the requested documents under the California Public
3 Records Act. (Gov. Code 6260, et seq. [the “CPRA”].) The CPRA concerns the public’s access
4 to government documents that concern the people’s business whereas the Discovery Act
5 concerns a litigant’s access to information relevant to the claims and defenses in a lawsuit. A
6 litigant’s ability to obtain discovery in a lawsuit does not limit or in any way diminish the
7 litigant’s rights as a member of the public to access public records under the CPRA. (*County of*
8 *Los Angeles v. Superior Court* (2012) 211 Cal.App.4th 57, 63.) Similarly, a litigant’s
9 possession of public records obtained through the CPRA do not automatically relieve the
10 producing party of the burden of responding to requests for the production of documents and
11 producing the same documents in civil litigation. The pertinent difference in the two situations is
12 that the court can on a motion for a protective order consider a party’s possession of public
13 records obtained through the CPRA in determining whether the state entity must bear the burden
14 of producing the same documents in civil discovery. (CCP 2019.030(a)(1) [court can limit
15 discovery if the discovery sought is “unreasonably cumulative or duplicative, or is obtainable
16 from some other source”].) This would, however, be a fact specific determination.
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19 The court will not stay discovery simply because the case might be resolved by decisions
20 of the Court of Appeal in other cases. As a general proposition, the court is not inclined to stay a
21 case or to stay discovery at the trial level because a central issue might be resolved by a Court of
22 Appeal decision. There are many unresolved legal issues and even more individualized factual
23 scenarios. In addition, the case on appeal might settle or the Court of Appeal might decide the
24 case on a narrow ground and leave a legal issue in question unresolved. The court will not delay
25 the resolution of matters before the trial court based on the possibility that at some indeterminate
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1 time the Court of Appeal might address and resolve a legal issue that might be pertinent to this
2 case. That said, if the Court of Appeal issues a published decision that one side or the other
3 thinks will resolve some or all of the claims in this case, then they may bring a motion for
4 judgment on the pleadings or another motion addressing the merits of the case.

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6 **ORDER.**

7 The motion of CDSH to stay discovery is DENIED. The CDSH has not demonstrated
8 that it is appropriate to stay all discovery in this case. The CDSH did not identify the discovery
9 sought to be stayed, did not demonstrate that the case has so little legal merit that the court will
10 likely sustain the pending demurrer without leave to amend, did not demonstrate that the
11 discovery sought was “unreasonably cumulative or duplicative, or [had been obtained] from
12 some other source” (CCP 2019.030(a)(1)), and did not demonstrate that that the legal issues in
13 this case will be resolved in the cases now pending in the Court of Appeal.
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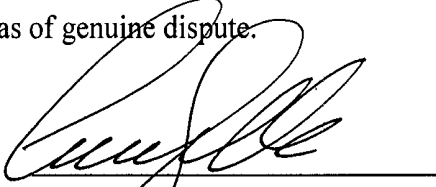
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16 The court suggests, but does not order, that the parties meet and confer to discuss options
17 regarding the scope and nature of reasonable discovery appropriate to this case. This includes,
18 but is not limited to, the following:

- 19 1. Discussing whether to enter into a stipulated protective order that will preserve the
20 privacy interests of third parties.
- 21 2. Discussing whether the CDSH could produce in this case the documents that the
22 CDSH previously produced in the other cases. The documents are presumably
23 relevant the claims in this case because the CDSH argued that the court should stay
24 this case because the central issues would be resolved in the other cases. There is
25 presumably minimal burden on the CDSH because the CDSH has presumably
26 identified, collected, scanned, and numbered the documents in the other cases.

- 1 3. Discussing whether the CDSH has relevant, readily identifiable, and readily
2 accessible data that has not been produced in the other cases.
- 3 4. Discussing whether the CDSH has relevant data that is not both readily identifiable
4 and readily accessible data, and for which production might be contingent on cost
5 shifting. (CCP 2031.280(e); *Toshiba America Electronic Components, Inc. v.*
6 *Superior Court* (2004) 124 Cal.App.4th 762, 769-772.) The CDSH could then offer
7 plaintiffs estimates of how much money it would cost to obtain various types or
8 categories of data.
- 9 5. After narrowing the issues, filing a motion for a protective order or motion to compel
10 to permit judicial resolution on the areas of genuine dispute.

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12 Dated: November 18, 2015

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14 Evelio Grillo
15 Judge of the Superior Court
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Superior Court of California, County of Alameda
Department 14, Administration Building

Case Number: RG15 779731

RE: ORDER DENYING MOTION OF RESPONDENTS TO STAY DISCOVERY

DECLARATION OF SERVICE BY MAIL

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown at the bottom of this document, and that the mailing of the foregoing and execution of this certificate occurred at 1221 Oak Street, Oakland, California.

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I declare under penalty of perjury that the foregoing is true and correct. Executed on November 19, 2015.

Chad Finke,
Executive Officer/Clerk of the Superior Court

by *Sianté Dewberry*
Sianté Dewberry
Deputy Clerk