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Superior Court of California, County of Alameda
Rene C. Davidson Alameda County Courthouse

Stiavetti <p style="text-align: right;">Plaintiff/Petitioner(s)</p> <p style="text-align: center;">VS.</p> Ahlin <p style="text-align: right;">Defendant/Respondent(s) (Abbreviated Title)</p>	No. <u>RG15779731</u> Order Motion to Strike Complaint Denied
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The Motion to Strike Complaint filed for State of California and Santi J. Rogers and Pamela Ahlin was set for hearing on 04/26/2016 at 10:00 AM in Department 21 before the Honorable Winifred Y. Smith. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

The Motion of defendants Pamela Ahlin, sued in her official capacity as Director of the Department of State Hospitals ("DSH"), Santi Rogers, sued in his official capacity as Director of the Department of Developmental Services ("DDS"), and the State of California (collectively, "Defendants") To Strike Portions of the Petition For Writ of Mandate and Complaint For Declaratory and Injunctive Relief ("Complaint") of plaintiffs Stephanie Stiavetti, Kellie Bock, Rosalind Randle, Nancy Leiva, American Civil Liberties Union of Northern California ("ACLU-NC"), and American Civil Liberties Union of Southern California ("ACLU-SC") (collectively, "Plaintiffs") ("Motion") is ruled on as follows:

This Motion was heard concurrently with Defendants' Demurrer, which will be the subject of a separate order. All relevant portions of that order are incorporated herein by this reference.

REQUEST FOR JUDICIAL NOTICE:

Defendants' request for judicial notice is **GRANTED** as to the existence of the subject records only.

MOTION:

Defendants seek to strike three categories of allegations from the Complaint on the basis that they are irrelevant to Plaintiffs' claims against Defendants: 1) allegations concerning the conditions of confinement at county jails, including but not limited to Los Angeles County Jail, Contra Costa County Jail, Sutter County Jail, and Solano County Jail; 2) allegations that decedent Rodney Bock was not timely admitted by DSH; and 3) allegations that Brett Nye was not timely admitted by DSH. Defendant also asserts that some of these allegations are time barred.

In opposition, Plaintiffs argue that all of these allegations support the basic premise of the alleged constitutional violations, that confinement in county jails worsens the mental state of IST defendants and places them in danger. (Complaint, paragraph 2.) The court agrees. The allegations in these three categories do not fall within the scope of Code of Civil Procedure section ("CCP") 436(a). The Motion is **DENIED** as to these allegations.

Order

Defendants also seek to strike the prayer for mandamus relief. For the reasons stated in the companion order on Defendants' Demurrer, the Motion is DENIED as to the prayer for mandamus relief.

Defendants also seeks to strike allegations that ACLU-NC and ACLU-SC pay California taxes. Plaintiffs have conceded this point in their opposition. Accordingly the Motion is GRANTED as to allegations of direct payment by ACLU-NC and ACLU-SC of taxes. However, as indicated in the companion order of Defendants' Demurrer, associational standing on the basis of the payment of taxes by members is adequately pled.

Finally, Defendants assert that the entire Complaint should be stricken on the basis that it is not properly verified. Their primary argument in support of this assertion is that the person who executed the verification is an attorney, and she did not set forth in the verification the reasons why the verification was not done by a party. This argument has no merit. As Plaintiffs argued in their opposition, Christine P. Sun signed the verification in her officer capacity as Associate Director and Director of the Legal Policy Department of the ACLU-NC. The court also rejects Defendants' further assert that the verification is inadequate because it is made "on information and belief." The court finds that while the verified Complaint may be subject to hearsay objections if relied upon as evidence, the verification on information and belief, which falls within the scope of CCP section 446, is sufficient, for pleading purposes. The extent it seeks to strike the entire Complaint on the basis of insufficient verification, the Motion is DENIED.

Dated: 04/26/2016

Facsimile


Judge Winifred Y. Smith

SHORT TITLE:

Stiavetti VS Ahlin

CASE NUMBER:

RG15779731

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