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AUG 26 2002  
CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION AT SANTA ANA  
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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

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2002  
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FRED PIERCE, et al.

Plaintiffs

vs.

County of Orange, et al.;

Defendants.

ENTER ON ICMS  
8-27-02  
AUG 27 2002  
*[Signature]*

Case No. SA CV 01-981 GLT (MLGx)

~~DEFENSIVE~~ ORDER GRANTING  
DEFENDANTS' MOTION TO DISMISS IN  
PART, DENYING DEFENDANTS' MOTION  
FOR A MORE DEFINITE STATEMENT,  
AND GRANTING PLAINTIFFS' MOTION  
TO AMEND

Calendar Item #12

Defendants' Motion to Dismiss is GRANTED in part with <sup>45</sup>20 days  
leave to amend. Defendant's Motion for a More Definite Statement is  
DENIED. Plaintiffs' Motion to amend is GRANTED.

I. BACKGROUND

Plaintiffs brought class action claims against Defendants County  
of Orange, Sheriff Michael S. Carona, and Doe Defendants 1-200,  
alleging violations of Plaintiffs' civil right and rights established  
under Stewart v. Gates, 450 F. Supp. 583 (C.D. Cal. 1978). Plaintiffs  
claim they were detained for an unreasonable period of time after they

*[Signature]*

1 were entitled to release, denied Stewart v. Gates rights including  
2 seats in holding cells, outdoor exercise, day room and telephone  
3 access, and/or denied rights under the American with Disabilities Act  
4 (ADA).

5 Defendants move to dismiss Plaintiff's 5th, 6th, and 8th claims  
6 for failure to state a claim upon which relief can be granted pursuant  
7 to Federal Rule 12(b)(6). Defendants also move for a more definite  
8 statement under Federal Rule 12(e). Defendant further moves to  
9 dismiss Plaintiffs' supplemental state claims. Plaintiffs request  
10 leave to amend the complaint to include additional asserted  
11 violations.

## 12 II. DISCUSSION

### 13 A. Defendants' 12(b)(6) Motion to Dismiss

14 The function of a Rule 12(b)(6) motion is to test the legal  
15 sufficiency of the claims stated in the complaint. The Court  
16 construes the complaint in the light most favorable to the plaintiff  
17 and accepts all well-pleaded factual allegations as true. Cahill v.  
18 Liberty Mut. Ins. Co., 80 F.3d 336, 337-38 (9th Cir. 1996). "However,  
19 the court is not required to accept legal conclusions cast in the form  
20 of factual allegations if those conclusions cannot reasonably be drawn  
21 from the facts alleged." Clegg v. Cult Awareness Network, 18 F.3d  
22 752, 754-55 (9th Cir. 1994).

23 Dismissal is proper only where there is either a "lack of a  
24 cognizable legal theory or the absence of sufficient facts alleged  
25 under a cognizable legal theory." Balistreri v. Pacifica Police  
26 Dept., 901 F.2d 696, 699 (9th Cir. 1990). Thus, the question is  
27 whether the facts alleged, if true, would entitle the plaintiff to any  
28

1 form of relief. See Conley v. Gibson, 355 U.S. 41, 45-46 (1957);  
2 Parks Sch. of Bus., Inc. v. Symington, 51 F.3d 1480, 1484 (9th Cir.  
3 1995).

4 1. 5th Claim: Violation of California Civil Code Section  
5 52.1

6 Plaintiffs sufficiently state a claim for relief under California  
7 Civil Code Section 52.1.

8 Section 52.1 creates a cause of action against "a person or  
9 persons, whether or not acting under color of law, [who] interferes by  
10 threats, intimidation, or coercion, or attempts to interfere by  
11 threats, intimidation, or coercion, with the exercise or enjoyment by  
12 any individual or individuals" of federal or state constitutional or  
13 statutory rights. Defendants argue Plaintiffs failed to state a claim  
14 under Section 52.1 because Plaintiffs did not allege membership in a  
15 protected class or deprivation of rights by "threat, intimidation, or  
16 coercion."

17 Plaintiffs are not required to allege they were members of a  
18 protected class in order to bring a Section 52.1 claim. Stats.2000,  
19 c.98, Section 1 ("Section 52.1 of the Civil Code guarantees the  
20 exercise or enjoyment by any individual or individuals of  
21 rights...without regard to his or her membership in a protected  
22 class...."). In their Second Amended Complaint (SAC), Plaintiffs  
23 allege they were falsely imprisoned due to unnecessary delays in  
24 release and subject to specific detention conditions in violation of  
25 their rights under the ADA and Stewart v. Gates, 450 F.Supp. 583, 590  
26 (CD Cal., 1978), and specifically allege Defendants interfered with  
27 Plaintiffs' enjoyment of their rights "by threat, intimidation or  
28

1 coercion." SAC ¶42-43. Plaintiff's short and plain statements of  
2 their claim, showing they are entitled to relief and demanding  
3 judgment for relief meets the pleading requirements of Federal Rule 8.

4 Plaintiffs sufficiently state a claim for relief under Section  
5 52.1. Defendants' motion to dismiss Plaintiffs' 5th claim is DENIED.

6 2. 6th Claim: Violation of California Constitution

7 Plaintiffs also sufficiently state a claim for relief with  
8 reference to the California Constitution. Defendants argue  
9 governmental liability is limited to exceptions specifically set forth  
10 by statute, and the provisions invoked by Plaintiffs do not authorize  
11 such liability.

12 Section 52.1 authorizes suits for damages resulting from state or  
13 federal constitutional violations, including violations by persons  
14 "acting under color of law." Section 52.1(b); Reynolds v. County of  
15 San Diego, 84 F.3d 1162, 1170 (9th Cir. 1996). The Court will  
16 construe this claim to be an additional Section 52.1(b) claim.  
17 Defendants' motion to dismiss Plaintiffs' 6th claim is DENIED.

18 3. 8th Claim: Injunctive and Declaratory Relief

19 Plaintiffs have not sufficiently stated a claim for injunctive and  
20 declaratory relief.

21 In order to have standing to seek injunctive or declaratory  
22 relief, a plaintiff must have suffered injury and there must be  
23 substantial likelihood he will again be subjected to the allegedly  
24 unlawful policy in the future. City of Los Angeles v. Lyons, 461 U.S.  
25 95, 111 (1983). Also, the injury alleged must be capable of being  
26 redressed through injunctive relief "at that moment." County of  
27 Riverside v. McLaughlin, 500 U.S. 44, 51 (1991).

1 Plaintiffs allege Defendants were engaged in the unlawful  
2 practices against Plaintiff Conn at the time the SAC was filed; Conn  
3 was then held in the main Men's Jail and subject to the allegedly  
4 unlawful jail conditions. SAC ¶14. This allegation is sufficient for  
5 Conn, and the class can join in this claim if it is certified.

6 Plaintiffs also allege "a realistic probability" exists that  
7 Plaintiffs will be subject to the allegedly unlawful practices of  
8 Defendants in the future, but do not allege any facts to support that  
9 conclusion. This is insufficient.

10 Plaintiffs have failed to state a claim for which injunctive and  
11 declaratory relief can be granted. Defendants' motion to dismiss  
12 Plaintiffs' 8th claim is GRANTED with 20 days leave to amend.

13 B. Defendants' 12(e) Motion for a More Definite Statement

14 A Rule 12(e) motion for a more definite statement must be  
15 considered in light of the liberal pleading standards of Rule 8(a),  
16 which require a complaint need only be a "short and plain statement of  
17 the claim showing that the pleader is entitled to relief." FRCP 8(a);  
18 Bureerong v. Uvawas, 922 F.Supp. 1450, 1461 (CD Cal. 1996). Rule  
19 12(e) motions for a more definite statement are viewed with disfavor,  
20 but may be granted when the pleading is so vague or ambiguous that the  
21 opposing party cannot be reasonably required to frame a response.  
22 McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996).

23 Plaintiffs' SAC is not so ambiguous or vague as to prevent  
24 Defendants from framing a response. Defendants argue Plaintiffs fail  
25 to allege which of the three groups of Orange County Defendants are  
26 targeted for each alleged violation. Plaintiffs' claims for relief,  
27 however, target the conditions of the Orange County Jails, and  
28 Plaintiffs' SAC sufficiently describes the allegedly unlawful

1 conditions. Based on the SAC, Defendants can respond to Plaintiffs'  
2 allegations as to these conditions. Defendants also argue Plaintiff  
3 Pierce has not sufficiently alleged facts to qualify him as a class  
4 representative. The lack of detail as to Plaintiff Pierce's  
5 qualifications as a class representative does not prevent Defendants  
6 from responding to the allegations about jail conditions. The details  
7 Defendants seek are obtainable through discovery, for which a 12(e)  
8 motion is not a substitute. Beery v. Hitachi Home Electronics, 147  
9 FRD 477, 480 (CD Cal. 1986).

10 Defendants' motion for a more definite statement is DENIED.

11 C. Defendants' Motion to Dismiss Plaintiffs' Supplemental State  
12 Claims

13 Supplemental jurisdiction over state law claims may be declined  
14 when the state law claim involves a novel or complex issue of state  
15 law, the state law substantially predominates over the federal claims,  
16 the federal claims have been dismissed, or when other exceptional or  
17 compelling reasons exist. 28 U.S.C. §1367(c). Supplemental  
18 jurisdiction may also be declined on the basis of "judicial economy,  
19 convenience, fairness to the parties and comity." Executive Software  
20 No. America, Inc. v. United States Dist. Ct., 24 F.3d 1545, 1552-1555  
21 (9th Cir. 1994). A court may decline supplemental jurisdiction at any  
22 state of the litigation, even if the court had previously decided to  
23 exercise jurisdiction. Innovative Home Health Care, Inc. v. P.T.-O.T.  
24 Assocs. of Black Hills, 141 F.3d 1284, 1287 (8th Cir. 1994).

25 Plaintiffs bring four federal claims and three state claims, with  
26 an additional claim for injunctive and declaratory relief based on  
27 both state and federal law. Defendants argue the Court should decline  
28 jurisdiction over Plaintiffs' state claims because the state claims

1 raise novel or complex issues of state law, present a potential for  
2 jury confusion, and predominate over the federal claims.

3 Defendants also argue supplemental jurisdiction should be declined  
4 because Plaintiffs' claim raise novel or complex issues of state law,  
5 namely, whether Defendants can assert qualified immunity as a defense  
6 under California law. Defendants further argue Plaintiffs' claims  
7 present a potential for jury confusion due to the different standards  
8 between state and federal law for punitive damages.

9 Defendants' concerns about possible difficulties at trial have not  
10 yet materialized. At this point in the litigation, Plaintiffs'  
11 federal claims have not been finally dismissed, and Defendants do not  
12 contend Plaintiffs' federal claims are weak. See 28 U.S.C.  
13 1367(c)(3); Diven v. Amalgamated Transit Union, 38 F.3d 598, 602 (DC  
14 Cir. 1994). Plaintiffs' state claims do not predominate their  
15 federal claims. All of the claims arise out of the same set of jail  
16 conditions and involve approximately the same scope of proof and  
17 issues. Supplemental jurisdiction is strongly favored when the  
18 federal and state claims are closely related. Miller v. Lovett, 879  
19 F.2d 1066, 1072 (2nd Cir. 1989).

20 Defendants' motion to dismiss Plaintiffs' supplemental state  
21 claims is DENIED.

22 D. Plaintiffs' Motion for Leave to Amend Complaint

23 Federal Rule 15(a) provides leave to amend "shall be freely  
24 given," unless the opposing party makes a showing of undue prejudice,  
25 bad faith, or dilatory motive on the part of the moving party. Foman  
26 v. Davis, 371 US 178, 182 (1962). Defendants have not shown  
27 Plaintiffs' motion to amend to add additional violations is motivated  
28 by bad faith or improper motives. The claims of prejudice are not

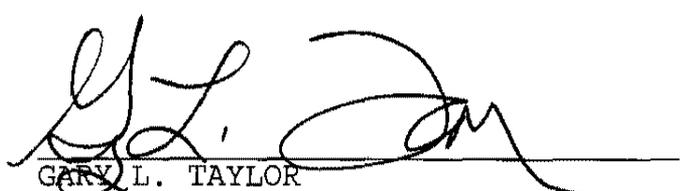
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"undue."

Plaintiffs' motion to amend is GRANTED.

DATED: August 26, 2002.



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GARY L. TAYLOR  
UNITED STATES DISTRICT COURT JUDGE