

140 Fed.Appx. 677

This case was not selected for publication in the Federal Reporter.

Not for Publication in West's Federal Reporter See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also Ninth Circuit Rule 36-3. (Find CTA9 Rule 36-3)
United States Court of Appeals,
Ninth Circuit.

James CLAYWORTH, R.Ph, dba Clayworth
Healthcare Pharmacy; Wayne Roberts; Madeleine
Madden, Plaintiffs-Appellees,

v.

Diana M. BONTA, Director of the Department of
Health Services, state of California,
Defendant-Appellant,

and

Department of Health Services, a department of
the state of California, Defendant.

California Medical Association; American
Academy of Pediatrics-California District;
American College of Obstetricians and
Gynecologists-District IX; California Chapter
American College of Emergency Physicians;
California Dental Association; Long Term Care
Pharmacy Alliance; California Foundation for
Independent Living Centers; California
Pharmacists Association; Aids Healthcare
Foundation; Professional Pharmacy Alliance of
California; Brain Injury Policy Institute; Long
Term Care Management Council; Osteopathic
Physicians and Surgeons of California,
Plaintiffs-Appellees,

v.

Diana M. Bonta, Director of the Department of
Health Services, State of California,
Defendant-Appellant.

Nos. 04-15498, 04-15532. | Argued & Submitted
Dec. 8, 2004.*

This panel unanimously finds this case suitable for decision
without oral argument. *See* Fed. R.App. P. 34(a)(2).

| Decided Aug. 2, 2005.

Synopsis

Background: Medicaid providers and beneficiaries brought action challenging California's impending 5% reduction in reimbursement rate paid to providers. The

United States District Court for the Eastern District of California, David F. Levi, J., 295 F.Supp.2d 1110, granted plaintiffs' motion for preliminary injunction. State of California appealed.

Holding: The Court of Appeals held that neither Medicaid recipients nor providers had private right to challenge California's compliance with Medicaid quality and access provisions under § 1983.

Reversed.

Attorneys and Law Firms

*678 Lynn S. Carman, Esq., San Rafael, CA, Byron J. Gross, Esq., Craig J. Cannizzo, Esq., Hooper, Lundy & Bookman, Inc., San Francisco, CA, for Plaintiffs-Appellees.

Irene K. Tamura, Esq., Julie Weng-Gutierrez, Esq., Office of the California Attorney General Department of Justice, Sacramento, CA, for Defendant-Appellant.

Appeal from the United States District Court for the Eastern District of California, David F. Levi, District Judge, Presiding. D.C. Nos. CV-03-02110-DFL, CV-03-02336-DFL.

Before O'SCANNLAIN, COWEN,** and BEA, Circuit Judges.

** The Honorable Robert E. Cowen, Senior United States Circuit Judge for the Third Circuit, sitting by designation.

Opinion

MEMORANDUM***

*** This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

James Clayworth, dba Clayworth Healthcare Pharmacy, and two Medicaid recipients, brought suit against Diana Bonta, in her official capacity as Director of the California Department of Health Services, and the California Department of Health Services.¹ Separately, a consortium of 14 Medi-Cal service providers and the Disabled Rights Union, a non-profit association of

disabled persons, also brought suit against Bonta. From adverse judgments in district court, Bonta brought these appeals, which we have consolidated.

¹ The case against the California Department of Health Services was eventually dismissed on the basis of Eleventh Amendment immunity and no cross-appeal has been filed.

which we held *679 that neither Medicaid recipients nor providers have a private right to challenge California's compliance with Medicaid provision § 30(A) under 42 U.S.C. § 1983.

The judgment of the district court is

REVERSED.

The legal issue here has been resolved by *Sanchez v. Johnson*, 416 F.3d 1051 (9th Cir.2005), filed this date, in
