

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 15-01448-CJC (JCGx)

Date: September 13, 2016

Title: KIRSTEN COOK AND ESTATE OF ETHAN COOK V. STEVEN DRAGNA ET AL.

PRESENT:

HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT JUDGE

Melissa Kunig
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

**PROCEEDINGS: (IN CHAMBERS) ORDER CONTINUING HEARING ON
MOTION FOR JUDGMENT ON THE PLEADINGS AND EXPANDING PRIOR
ORDER TO SHOW CAUSE WHY PLAINTIFFS' SECOND AMENDED
COMPLAINT SHOULD NOT BE DISMISSED WITH PREJUDICE FOR
FAILURE TO SUFFICIENTLY PLEAD CAUSATION**

On July 22, 2016, the Court held in abeyance four motions to dismiss this case and ordered the Plaintiffs to show cause why their complaint should not be dismissed with prejudice for failure to sufficiently plead causation as to Defendants Steven Dragna, Kristen Klein, Sylvia Cote, Orange County, the State of California, and the Superior Court. Plaintiffs filed their response to the Court's order on August 17, 2016. (Dkt. 132; *see also* Dkt. 127 Ex. 2.)

The operative Second Amended Complaint brings claims against (1) Alan Cook; (2) Ethan Cook's counsel, Steven Dragna; (3) Orange County social worker Kristen Klein; (4) Orange County Mental Health employee Sylvia Cote; (5) Miriam Galindo, custody evaluator; (6) Jorge Galindo, Miriam's husband and business partner; (7) Galindo and Associates (their company); (8) Connie Bird, reunification therapist; (9) the Laguna Beach Police Department and various officers; (10) Orange County; (11) Orange County Superior Court; and (12) the State of California. (Dkt. 79.)

Since the Court issued its Order to Show Cause, the Laguna Beach Police Department and the various officers named in Plaintiffs' complaint filed a motion for

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judgment on the pleadings. (Dkt. 126.) Their motion raises the same underlying issue of causation. (*See id.*) In addition, Defendant Alan Cook filed a response to Plaintiffs' response to the Order to Show Cause asking for dismissal of the claims against him on the same causation deficiency. (Dkt. 142.)

Currently, the Police Department's motion for judgment on the pleadings is scheduled for hearing on October 3, 2016. The Court also granted Defendant Alan Cook an extension on the time to file a motion to dismiss. (Dkt. 136.)

Having thoroughly reviewed all submitted materials and cases cited therein, the Court is unconvinced that Plaintiffs have adequately pled causation. Ethan's suicide appears to have been over a year after he interacted with nearly every defendant, and it is unclear that the narrow exceptions to suicide being an intervening cause apply to any defendant. Accordingly, it appears that the connection between Ethan's suicide and the named Defendants is too attenuated to support causation as a matter of law, even assuming the truth of Plaintiffs' allegations.

Because this issue appears to be dispositive, Plaintiffs are hereby ORDERED TO SHOW CAUSE why claims against (1) the Police department and individual officers, (2) the Galdinos and their company, (3) Alan Cook, and (4) Connie Bird should not also be dismissed based on their failure to adequately plead proximate causation. The parties are once again instructed to address pertinent caselaw concerning the effect of a victim's suicide on the proximate causation analysis. The Court also notes the extensive filings already presented and urges Plaintiffs to streamline their response to this Order wherever possible (including citing to previously-filed documents).

Plaintiffs must file their briefing by **Monday, October 3, 2016**. Any defendant that wishes to file briefing in opposition is instructed to do so by **Monday, October 17, 2016**. Plaintiffs may file a reply brief by **Monday, October 24, 2016**.

A hearing on pending motions (including Defendant Alan Cook's motion to dismiss, if filed, and in compliance with local rules) and the Court's orders to show cause will occur **November 14, 2016**. Accordingly, the hearing scheduled for October 3, 2016, is hereby CONTINUED to November 14, 2016.

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