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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DANIEL D. CLAXTON,

No. 2:08-cv-01058-MCE-EFB

Petitioner-  
Plaintiff,

v.

**ORDER**

COUNTY OF COLUSA; et al.,

Respondents-  
Defendants.

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Through these proceedings, Petitioner/Plaintiff Daniel D. Claxton challenges Colusa County's refusal to permit his proposed subdivision of farmland into smaller parcels. Plaintiff's lawsuit, initially filed in Colusa County on April 5, 2008, contained both a state claim seeking administrative mandamus under California Code of Civil Procedure § 1094.5, as well as federal claims alleging that Plaintiff's equal protection and due process rights were violated in contravention of 42 U.S.C. § 1983. On May 13, 2008, Defendants removed the case on the basis of those federal claims.

1 On February 4, 2009, the parties presented a stipulation  
2 proposing that this matter be bifurcated, so that the Petition  
3 for Writ of Mandate could be decided by this Court in advance of  
4 Plaintiff's other claims. That stipulation was adopted as the  
5 Court's Order on February 11, 2009.

6 In the Stipulation to Bifurcate, the parties agreed that  
7 "economy and efficiency will be promoted by bifurcating the  
8 Petition for Writ of Mandate from the other causes of action",  
9 noting specifically that there were "few similarities" between  
10 the writ hearing and disposition of the remainder of the case.  
11 See Docket No. 15, 2:22-24. As the parties explained, the  
12 mandate proceeding is heard before the judge based primarily on  
13 the administrative record, as opposed to the constitutional  
14 claims which necessitate full discovery and typically entail  
15 adjudication through full jury trial. The parties went on to  
16 expressly agree that proceeding first on the Writ of Mandate, "in  
17 advance of conducting discovery", would "likely dispose of some,  
18 if not all, of the issues relevant to the remaining causes of  
19 action." Id. at 3:10-13.

20 By Memorandum and Order filed January 15, 2010, the Court  
21 granted Plaintiff's Petition for Writ of Mandate. Through the  
22 Present Motion, Defendants seek certification of the Court's  
23 January 15, 2010 Order as immediately appealable under Federal  
24 Rule of Civil Procedure 54(b). Defendants also seek a stay of  
25 ongoing procedures in this matter during the stay of the  
26 certification process, and finally seek clarification of one of  
27 the Court's docket entries made on January 15, 2010.

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1           Despite Plaintiff's own admission in the Stipulation to  
2 Bifurcate that the mandamus petition has "few similarities" with  
3 the remainder of the action, he now argues in opposition to  
4 Defendants' request that the issues are not substantially  
5 different. Docket No. 36, 3:4. The Court disagrees, and finds  
6 its interlocutory order subject to immediate appellate review  
7 under Rule 54(b). Defendants' Motion is accordingly well taken.

8           Rule 54(b) provides in pertinent part as follows:

9           "When an action presents more than one claim for  
10 relief.... or when multiple parties are involved, the  
11 court may direct entry of a final judgment as to one or  
12 more, but few than all, claims or parties only if the  
13 court expressly determines that there is no just reason  
14 for delay....

15 Requiring parties to seeks certification under Rule 54(b)  
16 "eliminates improper appeals of nonfinal judgments while  
17 permitting prompt appeals when necessary." American States Ins.  
18 Co. v. Dastar Corp., 318 F.3d 881, 889 (9th Cir. 2003).

19           While Plaintiff appears to claim that any factual similarity  
20 between the factual bases underlying the writ of mandate and  
21 federal claims should preclude Rule 54(b) certification, the  
22 Ninth Circuit recognized in Gregorian v. Izvestia, 871 F.2d 1515,  
23 (9th Cir. 1989), that certification is proper, even in the face  
24 of such interrelationship, as long as the claim for which  
25 certification is sought is "substantially different" from the  
26 remaining claims. Id. at 1520.<sup>1</sup>

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27           <sup>1</sup> Although Plaintiff cites Wood v. GCC Bend, LLC, 422 F.3d  
28 873 (9th Cir. 2005) for the proposition that factual overlap  
militates against certification, that case is factually  
distinguishable as involving a straightforward employment case  
where claims could not, as here, be readily severed.

(continued...)

1 Here, Plaintiff's claim for administrative mandamus under  
2 state law is unquestionably "substantially different" from  
3 Plaintiff's federally rooted constitutional claims. A writ of  
4 mandate challenges the application by a local agency of existing  
5 law or policy to a given set of fact, whereas claims for due  
6 process and equal protection brought pursuant to 42 U.S.C. § 1983  
7 involve complex issues of invidious discrimination as well as the  
8 infringement of fundamental property interests. In addition to  
9 being intrinsically different on a substantive basis, they are  
10 also procedurally inapposite, as indicated above, since a  
11 mandamus proceeding operates much like an appeal, being based on  
12 the administrative record, as opposed to § 1983 claims which are  
13 typically resolved through a jury trial after the development of  
14 a new factual record through discovery. Finally, because the  
15 parties have previously agreed that a final resolution of the  
16 writ proceedings would likely dispose of the remaining causes of  
17 action, it is unlikely that the same set of issues will have to  
18 be addressed on appeal again. See Morrison-Knudsen Co. v.  
19 Archer, 655 F.2d 962, 965 (9th Cir. 1981).

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24 <sup>1</sup>(...continued)  
25 See id. at 879-880 (noting that Wood's wrongful constructive  
26 discharge was not "truly separable" from his other claims).  
27 Moreover, even the Wood panel is careful to state that "we do not  
28 mean to suggest that claims with overlapping facts are foreclosed  
from being separate for purposes of Rule 54(b). Id. at 881.  
Finally, nothing in Wood disapproves of the reasoning earlier  
employed in Gregorian, despite the fact that Gregorian is cited  
within the body of the Wood opinion.

1 Given the foregoing, Defendants' Motion for Certification,  
2 Request for Clarification, and Motion for Stay is accordingly  
3 GRANTED.<sup>2</sup> The Court makes the following findings:

4 1. The Court certifies its January 15, 2010 grant of  
5 Plaintiff's Petition for Writ of a Mandate (Docket No. 29) as a  
6 final judgment for purposes of Rule 54(b);

7 2. Given the parties' agreement that final resolution of  
8 the Writ will streamline the case, and likely avoid the need for  
9 extensive discovery and trial as to the remaining claims, there  
10 is no just reason for delay as to such determination; and

11 3. The present matter is hereby stayed during the pendency  
12 of the certification process.<sup>3</sup>

13 IT IS SO ORDERED.

14 Dated: March 26, 2010

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16 MORRISON C. ENGLAND, JR.  
17 UNITED STATES DISTRICT JUDGE  
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22 <sup>2</sup>Because oral argument would not be of material assistance,  
23 this matter was deemed suitable for decision without oral  
argument. E.D. Local Rule 230(g).

24 <sup>3</sup>Finally, with respect to Defendants' clarification request,  
25 Defendants are correct that the Judgment which had been rendered  
26 by the Clerk of Court on January 15, 2010, following the Court's  
27 Memorandum and Order filed that same day, was filed in error.  
28 That error was corrected by the Clerk's Notice of Docket  
Correction filed February 1, 2010. Consequently, prior to this  
Order, while Plaintiff's Petition for Writ of Mandate had been  
granted, in accordance with the final judgment rule the Court's  
order had not been reduced to judgment.