

1 I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND

2 Plaintiff owns a rental property ("the Property") in
3 Sacramento, California. Plaintiff was notified by Defendants
4 that certain activities occurring on the Property constituted a
5 public nuisance and that Plaintiff had a legal duty to abate the
6 nuisance activity. Defendants indicated that if the nuisance
7 activity continued they would take further enforcement action
8 against Plaintiff, which could include the imposition of
9 administrative penalties. The parties then engaged in
10 discussions regarding possible solutions to the issue, including
11 the eviction of certain tenants on the Property.

12 Eventually, Defendants determined the Property was a
13 continuing nuisance and imposed an administrative penalty of
14 \$4,999.99 on Plaintiff ("the Penalty"). Plaintiff filed an
15 administrative appeal. The hearing officer found Plaintiff
16 "failed to evict the tenants creating the nuisance in a timely
17 matter" and upheld the Penalty.

18 Plaintiff then filed the Complaint stating three causes of
19 action: (1) Violation of the Fifth and Fourteenth Amendments to
20 the United States Constitution pursuant to 42 U.S.C. § 1983
21 ("§1983"); (2) "Petition for Judicial Review of Hearing Officer's
22 Decision upholding Administrative Penalty" pursuant to California
23 Code of Civil Procedure §§ 1094.5, 1094.6; and (3) Tortious
24 Interference with Contractual Relationship under California law.
25 Plaintiffs filed a "Petition for Writ of Administrative Mandamus"
26 (Doc. #2) concurrently with the Complaint and in connection with
27 the second cause of action, seeking to set aside the hearing
28 officer's decision.

1 II. OPINION

2 A. Request for Judicial Notice

3 Plaintiff has requested the Court take notice (Doc. #19) of
4 a "criminal case search and information" for Ada Janett Leeper, a
5 tenant of the Property. The document is unnecessary for
6 determining the current motions. The request is denied.

7 B. Discussion

8 1. First Cause of Action

9 In their Motion, Defendants contend Plaintiff's §1983 claim
10 should be dismissed for failure to state a claim upon which
11 relief can be granted. MTD at pp. 3-5. Defendants argue the
12 Complaint fails to properly allege liability under Monell and
13 fails to adequately articulate the constitutional rights
14 allegedly violated. In its Opposition (Doc. #17), Plaintiff
15 requests leave to amend the Complaint in order to better state
16 the first cause of action. Pl. Opp. at pp. 3-4.

17 The Court therefore grants Defendants' Motion to Dismiss
18 Plaintiff's first cause of action with leave to amend.

19 2. Second Cause of Action

20 In its Motion, Plaintiff requests the Court allow it to
21 proceed with the second cause of action in the Complaint and the
22 corresponding petition, which seeks a writ of administrative
23 mandamus. Pl. Motion at pp. 3-4. Plaintiff alternatively
24 requests the Court allow it to litigate the remainder of the
25 claims in the Complaint and thereafter dismiss the second cause
26 of action or remand it to the appropriate state court at the
27 conclusion of these proceedings. In their Opposition (Doc. #12),
28 Defendants contend the Court should not exercise jurisdiction

1 over Plaintiff's writ as the proper venue is the Sacramento
2 County Superior Court. In their Motion to Dismiss, Defendants
3 argue the second cause of action should be dismissed because the
4 only basis for federal jurisdiction is the first cause of action,
5 which should be dismissed for failure to state a claim. Def.
6 Opp. at pp. 6-7.

7 The petition for writ of administrative mandamus requests
8 the Court to set aside the hearing officer's decision, upholding
9 Defendants' imposition of the Penalty. Petition at p. 4.
10 California Code of Civil Procedure § 1094.5 allows for judicial
11 review of certain administrative orders or decisions. Federal
12 courts may exercise supplemental jurisdiction over such
13 California mandamus actions. See Manufactured Home Communities,
14 Inc. v. City of San Jose, 420 F.3d 1022, 1027 n.6 (9th Cir.
15 2005). However, a "federal court's exercise of jurisdiction over
16 a state mandamus issue raises serious considerations regarding
17 comity and federalism." Fresno Unified Sch. Dist. v. K.U. ex
18 rel. A.D.U., 980 F. Supp. 2d 1160, 1184-85 (E.D. Cal. 2013).
19 Accordingly, federal courts have "generally been reluctant to
20 exercise supplemental jurisdiction over claims for writs of
21 mandate under California law." Id.

22 Mandamus proceedings to compel a state administrative
23 agency to act are actions that are uniquely in the
24 interest and domain of state courts. It would be
25 entirely inappropriate for a federal court, through
26 exercise of its supplemental jurisdiction, to impose
itself upon such proceedings. Considerations of
federalism and comity, not generally present with
typical "pendent" state claims, loom large in the case
of state mandamus proceedings.

27 Clemes v. Del Norte County Unified School District, 843 F. Supp.
28 583, 596 (N.D. Cal. 1994), overruled on other grounds, Maynard v.

1 dismissed WITHOUT PREJUDICE. Defendants' Motion to Dismiss the
2 third cause of action is DENIED WITHOUT PREJUDICE.

3 Plaintiff shall file its First Amended Complaint within
4 twenty days of the date of this Order. Defendants shall file
5 their responsive pleading within twenty days thereafter.

6 IT IS SO ORDERED.

7 Dated: October 29, 2015

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9 JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE

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