

United States District Court  
Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

	) Case No. 13-cv-03962-SC
ARVILLE WINANS, by and through	)
his guardian ad litem, RENEE	) ORDER RE: PLAINTIFF'S
MOULTON, on his own behalf and on	) <u>MOTION FOR CLARIFICATION</u>
behalf of others similarly	)
situated,	)
	)
Plaintiff,	)
	)
v.	)
	)
EMERITUS CORPORATION and DOES 1	)
through 100,	)
	)
Defendants.	)
	)

Now before the Court is Plaintiff Arville Winans's motion for clarification of the Court's March 5, 2014 order holding, in part, that the Court would abstain from deciding Plaintiff's claims for equitable relief against Defendant Emeritus Corporation ("Defendant"). ECF Nos. 58 ("Mot."), 53 ("Mar. 5 Order").

Plaintiff's first amended complaint alleged that Defendant has engaged in a scheme to defraud seniors by falsely representing that it will provide sufficient staff to care for all of its residents

1 based on the residents' evaluations, "when in truth [Defendant]  
2 determines facility staffing based on labor budgets set to meet  
3 profit margins established by corporate headquarters." ECF No. 24  
4 ("FAC") ¶ 2.

5 Plaintiff's FAC asserted claims for (1) violation of the  
6 California Consumers Legal Remedies Act ("CLRA"), Cal. Civ. Code §  
7 1750 et seq.; (2) violation of the California Unfair Competition  
8 Law ("UCL"), id. § 17200 et seq.; and (3) California's Elder  
9 Financial Abuse Act, Cal. Welf. & Inst. Code § 15610.30. FAC ¶¶  
10 73-114. Among other things, Plaintiff prayed for an injunction  
11 prohibiting Defendant from "promising elders, dependent adults, and  
12 their family members that [Defendant] will provide the care and  
13 personal services needed by each resident as assessed in their  
14 comprehensive evaluation and from charging its residents based on  
15 this false promise." Id. at 30. Plaintiff also sought an  
16 injunction "requiring Defendant to budget for and provide adequate  
17 aggregate staffing that is sufficient to meet its residents'  
18 assessed needs." Id. In its March 5 Order, the Court abstained  
19 from adjudicating Plaintiff's UCL and CLRA claims to the extent  
20 that Plaintiff sought equitable relief in conjunction with those  
21 claims. March 5 Order at 18. The Court did not abstain from  
22 hearing Plaintiff's claims for legal relief. Id.

23 Plaintiff now contends that the Court's March 5 Order was not  
24 clear on (1) whether the Court was abstaining from hearing  
25 Plaintiff's claims for equitable relief under both the Elder  
26 Financial Abuse Act and the CLRA, and apparently (2) whether the  
27 Court would hear claims for equitable relief that would require  
28 Defendant to disclose certain material facts relevant to its

1 staffing decisions. See Mot. at 4-8; Reply at 1-2.

2 "A court may clarify its order for any reason." Wahl v. Am.  
3 Sec. Ins. Co., No. C 08-0555 RS, 2010 WL 2867130, at \*9 (N.D. Cal.  
4 July 20, 2010). This type of request "invite[s] interpretation,  
5 which trial courts are often asked to supply, for the guidance of  
6 the parties." Bordallo v. Reyes, 763 F.2d 1098, 1102 (9th Cir.  
7 1985). "[W]here an order or direction of the court is clear, it  
8 follows that clarification is unnecessary." Mohammed v. City of  
9 Morgan Hill, No. 5:10-cv-05640-EJD, 2011 WL 5085497, at \*1-2 (N.D.  
10 Cal. Oct. 25, 2011).

11 The Court's March 5, 2014 Order specifically abstained from  
12 adjudicating Plaintiff's UCL and CLRA claims to the extent that  
13 they sought equitable relief. The Court's decision was based on  
14 California's judicial abstention doctrine, articulated in Alvarado  
15 v. Selma Convalescent Hospital, 153 Cal. App. 4th 1292 (Cal. Ct.  
16 App. 2007), and subsequent cases. The doctrine gives courts  
17 applying California law the discretion to abstain from hearing  
18 equitable claims where "the lawsuit involves determining complex  
19 economic policy, which is best handled by the Legislature or an  
20 administrative agency," or (2) "granting injunctive relief would be  
21 unnecessarily burdensome for the trial court to monitor and enforce  
22 given the availability of more effective means of redress." Id. at  
23 1298. The Court found that granting Plaintiff's requested  
24 injunctive relief would have required the Court to determine  
25 complex policy reserved to the California Department of Social  
26 Services, and that administering Plaintiff's proposed injunctive  
27 relief would be unduly burdensome given Plaintiff's claims for  
28 legal relief. Mar. 5 Order at 12-17.

1 Plaintiff was not entirely clear on whether he sought both  
2 legal and equitable remedies through his Elder Financial Abuse Act  
3 claim when the Court considered Defendant's motion to dismiss. To  
4 the extent Plaintiff contends that he affirmatively sought  
5 injunctive relief under the Elder Financial Abuse Act, the Court  
6 clarifies that it abstains from hearing Plaintiff's claims for  
7 injunctive relief under that statute for the same reasons as it  
8 does for Plaintiff's UCL and CLRA claims. Mar. 5 Order at 11-18.  
9 Given the legal bases for abstention as the Court explained them,  
10 holding them inapplicable to a separate statute would be  
11 contradictory at least, especially when Plaintiff has long  
12 contended that each claim would seek the same injunctions.  
13 Finally, the Court does not find that the March 5 Order failed to  
14 address CLRA-related misrepresentations in the context of  
15 abstention -- that discussion appears on page 16.

16 Plaintiff's motion is accordingly GRANTED in those narrow  
17 respects. To the extent that Plaintiff's motion seeks  
18 reconsideration of the Court's March 5 Order, the motion is DENIED.  
19 The Court also declines to address Plaintiff's new theories of  
20 injunctive relief at this point. If Plaintiff wishes to amend his  
21 complaint to assert new claims, he may notice and file a Rule 15  
22 motion, which the Court would then adjudicate under the Ninth  
23 Circuit's liberal standard for amendment.

24

25 IT IS SO ORDERED.

26

27 June 9, 2014

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UNITED STATES DISTRICT JUDGE