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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY _____  DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CHULA VISTA CITIZENS FOR JOBS AND
FAIR COMPETITION, *et al.*,

Plaintiffs,

vs.

DONNA NORRIS, *et al.*,

Defendants.

CASE NO. 09CV0897 BEN (JMA)

**ORDER DENYING MOTION TO
STRIKE**

[Dkt. No. 5]

INTRODUCTION

Defendants' motion to strike redundant and immaterial matter from Plaintiffs' Complaint pursuant to Federal Rule of Civil Procedure 12(f) is presently before the Court. Dkt. No. 5. Defendants move to strike 69 paragraphs from Plaintiffs' 207-paragraph Complaint. Plaintiffs opposed the motion, claiming the challenged paragraphs are not immaterial or redundant, but rather, the paragraphs are necessary to show Plaintiffs are plausibly entitled to relief and to set forth the legal grounds for Plaintiffs' claims. Dkt. No. 15. For the reasons set forth below, the motion is **DENIED**.

DISCUSSION

Rule 12(f) provides that a "court may strike from a pleading . . . any redundant, immaterial, impertinent, or scandalous matter." "The function of a 12(f) motion to strike is to avoid the expenditure of time and money that must arise from litigating spurious issues by dispensing with those issues prior to trial." *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993) *rev'd on other grounds*, 510 U.S. 517, 534-35 (1994). However, "[m]otions to strike are generally regarded

1 with disfavor because of the limited importance of pleading in federal practice, and because they
2 are often used as a delaying tactic.” *Cal. Dept of Toxic Substances v. Alco Pac., Inc.*, 217 F. Supp.
3 2d 1028, 1033 (C.D. Cal. 2002).

4 “Redundant allegations are those that are needlessly repetitive” *Alco Pac.*, 217 F.
5 Supp. 2d at 1033 (citing *Gilbert v. Eli Lilly Co., Inc.*, 56 F.R.D. 116, 121, n. 4 (D.P.R.1972); see
6 also *Wilkerson v. Butler*, 229 F.R.D. 166, 170 (E.D. Cal. 2005). Many of the paragraphs
7 Defendants move to strike as redundant are repetitive. A few of the challenged paragraphs even
8 begin “[a]s already stated.” However, the facts are restated as they relate to particular Plaintiffs
9 and particular claims. The repetition is not needless.


10 “Immaterial matter is that which has no essential or important relationship to the claim for
11 relief or the defenses being pleaded.” *Fantasy*, 984 F.2d at 1527. Many of the paragraphs
12 challenged as immaterial contain legal argument and restatements of statutes more common in a
13 motion than a pleading, but the nature of the claims asserted makes more explanation appropriate.
14 While probably still more than necessary, the greater explanation gives Defendants notice how
15 their conduct is allegedly unconstitutional, something that might not be sufficiently clear without
16 the challenged paragraphs. Additionally, the challenged paragraphs do relate to Plaintiffs’ claims
17 for relief.

18 **CONCLUSION**

19 The motion to strike is **DENIED**.

21 **IT IS SO ORDERED.**

22
23 DATED: August 13, 2009

24 

25 Hon. Roger T. Benitez
26 United States District Court Judge
27
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