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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JASON CLOVER, et al.
Plaintiffs,
v.
CAMP PENDLETON &
QUANTICO HOUSING LLC, et al.
Defendants.

Case No.: 20cv567-LAB (WVG)

**ORDER PROPOSING TO TREAT
GOVERNMENT’S NOTICE AS
MOTION FOR LEAVE TO
INTERVENE; AND**

ORDER VACATING HEARING

Defendants filed a motion to dismiss, claiming derivative immunity under *Yearsley v. W. A. Ross Constr. Co.*, 309 U.S. 18 (1940), and its progeny. After Plaintiffs filed their opposition, the United States filed a notice of statement of interest, citing 28 U.S.C. § 517. The notice does not merely give the government’s view of the law generally, but urges the Court to deny the motion based on the facts of the case. These include the terms of the operating agreement and the ground lease, to which Defendants and the government are parties. The notice does not say whether the Attorney General authorized the filing, or whether the decision to file the brief was that of the local U.S. Attorney’s office alone. See § 517 (providing that “any officer of the Department of Justice may be sent by the

1 Attorney General” to attend to the interests of the United States in a case pending
2 in federal court).

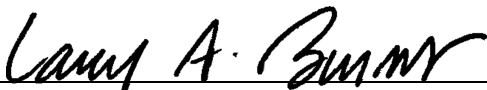
3 The Court proposes to treat the motion, in part, as a motion for leave to
4 intervene as to the issue raised, which it would be inclined to grant. *See County of*
5 *Ocean v. Grewal*, ___ F. Supp. 3d ___, 2020 WL 4345317, at *19 (D.N.J. July 29,
6 2020) (questioning the government’s standing as a non-party to raise certain
7 issues or claims in a notice of interest). If the government objects to this, it must
8 promptly either file an amended notice explaining that the Attorney General has
9 authorized the filing of the notice, or withdraw the notice.

10 The hearing on the motion to dismiss, currently on calendar for Monday,
11 November 23, 2020, at 11:15 a.m. is **VACATED**, but may be reset if appropriate.
12 Defendants may separately address the government’s arguments in their reply
13 memorandum. The page limit for their reply is extended to 15 pages, and the reply
14 brief should be filed by **November 30, 2020**. If Defendants have already filed a
15 reply brief by the time this order is docketed, they may file an amended brief subject
16 to the terms of this order.

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IT IS SO ORDERED.

Dated: November 16, 2020



Honorable Larry Alan Burns
Chief United States District Judge