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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 FRANCIS ANTHONY TREVINO,
11 et al.,

12 Plaintiffs,

13 v.

14 KEVIN W. QUIGLEY, et al.,

15 Defendants.

CASE NO. C18-0487JLR

ORDER TO SHOW CAUSE
REGARDING SUBJECT
MATTER JURISDICTION

16 Before the court is *pro se* Plaintiffs Francis Anthony Trevino and Mark Newton
17 Kelly's (collectively, "Plaintiffs") complaint against the Washington Department of
18 Social and Health Services ("DSHS"); Kevin W. Quigley, Secretary of DSHS; Spokane
19 County Superior Court Judge Gregory D. Sypolt; Spokane County Superior Court Judge
20 James M. Murphy; Washington State Supreme Court Clerk Erin L. Lennon; Washington
21 State Supreme Court Clerk Susan L. Carlson; and Dorothy Sawyer, CEO of Eastern State
22 Hospital (collectively, "Defendants"). (*See* Compl. (Dkt. # 1) at 1-3.) Plaintiffs allege

1 claims for violation of the First Amendment, federal antitrust law, 42 U.S.C. § 1983, 28
2 U.S.C. § 1343, 28 U.S.C. § 2201, and 28 U.S.C. § 2202. (*Id.* at 3.) Plaintiffs also
3 characterize their suit as a qui tam action. (*See id.*) The court has reviewed the
4 complaint and finds that Plaintiffs have failed to provide an adequate basis for subject
5 matter jurisdiction over Judge Sypolt, Judge Murphy, Ms. Lennon, and Ms. Carlson
6 (collectively, “Judicial Defendants”). The court therefore orders Plaintiffs to file no later
7 than May 2, 2018, a submission that addresses the court’s subject matter jurisdiction over
8 Judicial Defendants.

9 Plaintiffs assert that the court’s subject matter jurisdiction is based on a federal
10 question. (*Id.* at 3); *see also* 28 U.S.C. § 1331 (stating that a federal court’s subject
11 matter jurisdiction extends to “all civil actions arising under the Constitution, laws, or
12 treaties of the United States”). The party invoking jurisdiction must allege facts that
13 establish the court’s subject matter jurisdiction. *Lujan v. Defenders of Wildlife*, 504 U.S.
14 555, 560-61 (1992). A federal court has a duty to analyze its subject matter jurisdiction
15 *sua sponte*, *see Gonzalez v. Thaler*, 565 U.S. 134, 141 (2012), and if it determines that it
16 lacks subject matter jurisdiction at any time, the court must dismiss the action, *see Fed.*
17 *R. Civ. P. 12(h)(3)*; *Rosales v. United States*, 824 F.2d 799, 803 n.4 (9th Cir. 1987).
18 Here, the allegations in the complaint suggest that Judicial Defendants are entitled to
19 some form of judicial immunity, and therefore the court has no subject matter jurisdiction
20 as to those defendants. (*See Compl.* at 6-30 (alleging facts suggesting that Judicial
21 Defendants took actions within the scope of their judicial functions)); *Gordon v. Wooten*,

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1 No. 1:12-cv-00012-AWI-SKO, 2012 WL 967852, at *3 (E.D. Cal. Mar. 21, 2012)
2 (stating that judicial immunity deprives a court of subject matter jurisdiction).

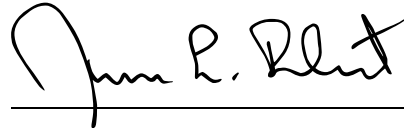
3 Judges are absolutely immune from liability for acts performed in their official
4 capacities and are liable only for acts taken in the clear absence of all jurisdiction or acts
5 that are not judicial in nature. *See Ashelman v. Pope*, 793 F.2d 1072, 1075 (9th Cir.
6 1986) (en banc). The immunity applies no matter how “erroneous the [judge’s] act may
7 have been, and however injurious in its consequences [the act] may have proved to the
8 plaintiff.” *Id.* at 1074 (internal quotation marks omitted) (citing *Cleavinger v. Saxner*,
9 474 U.S. 193 (1985)). As to Judge Sypolt and Judge Murphy, Plaintiffs allege no facts
10 suggesting that the judges acted without jurisdiction or outside of their judicial function.
11 (*See Compl.* at 22, 24, 27.)

12 In addition, judicial clerks enjoy quasi-judicial immunity when acting in their
13 official capacities. *See In re Castillo*, 297 F.3d 940, 951-52 (9th Cir. 2002) (stating that
14 “court clerks and other non-judicial officers” enjoy quasi-judicial immunity when they
15 perform tasks that are “an integral part of the judicial process” or “for purely
16 administrative acts . . . [that] are actually a part of the judicial function”); *Sams v. Cty. of*
17 *Riverside*, No. EDCV 17-1848 SVW (SS), 2018 WL 147433, at *7 (C.D. Cal. Mar. 26,
18 2018). Although judicial clerks may be liable for certain actions, Plaintiffs make no
19 allegations specifically against Ms. Carlson and Ms. Lennon. (*See Compl.* at 6-30.)

20 Accordingly, the court ORDERS Plaintiffs to SHOW CAUSE no later than May 2,
21 2018, why Judicial Defendants should not be dismissed from this case for lack of subject
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1 matter jurisdiction. If Plaintiffs fail to respond or provide a basis for exercising subject
2 matter jurisdiction over Judicial Defendants, the court will dismiss those defendants.

3 Dated this 17th day of April, 2018.

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6 JAMES L. ROBART
United States District Judge

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