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*Sonoma Next 100 SDC Suit Against Dept. of General Services Can Proceed Court Decides*



A ruling by Sonoma County Superior Court Judge Broderick allows his tentative ruling against DGS (Department of General Services) in favor of Sonoma Next

100 to proceed to trial. The next phase will be discovery and pre-trial motions about the disposition of the former Sonoma Developmental Center.

“We believe this is the first time a party has successfully moved to trial against DGS,” said Norman Gilroy of Sonoma Next 100.

The essence of the suit includes allegations by Sonoma Next 100 that the Department of General Services violated its own rules as well as state regulations pertaining to the disposition of the former Sonoma Developmental Center and the development proposal by Keith Rogal’s company. DGS had argued a demurrer and motion to strike the case before Judge Broderick, asserting that the claims by Sonoma Next 100 were legally insufficient in their effort to get the case dismissed. The judge was not persuaded.

In his opinion, Judge Broderick states:

“A motion to strike may attack any “irrelevant, false, or improper matter” in any pleading, or to strike a pleading that is “not drawn or filed in conformity with the laws of this state.” CCP §436. As with demurrers, the defect must appear on the face of the pleading or in matters judicially noticeable. CCP §437. The policy is to construe pleadings liberally “with a view to substantial justice.” CCP §452.

“Defendant also moves to strike certain portions of the complaint. They seek to strike allegations that Defendant violated Gov. Code section 11011.1 on the basis that a more specific statute, section 14670.10.5, controls its duties; the allegations regarding violations of that very statute, section 14670.10.5, on the ground that it fails to state facts sufficient to constitute a cause of action; allegations regarding Gov. Code section 65041.1 and Public Resources Code section 5024.5 because Plaintiffs cannot state a valid claim since no development has yet occurred; allegations linking the conduct of Defendant and RPIs because its allegations are incorrect or improperly impute certain conduct to Defendant.

“Preliminarily, those arguments based on failure to state facts sufficient to constitute a cause of action or improper and a repetition of the demurrer. They are

simply a demurrer in guise of a motion to strike, but a motion to strike applies differently. It is improper and unnecessary to use a motion to strike for the purposes of a demurrer. Moreover, as explained above in the demurrer discussion, Defendant is not persuasive.

“Otherwise, Defendant is basing the motion on claims, and even factual interpretations, beyond the scope of the motion and not supported by the face of the complaint.

The Judge’s conclusion directs as follows:

“The prevailing party shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.”

The complete record of the court’s decision can be found [HERE](#).