

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Jane Roe TT 80 v. Doe 1

No. 1:25-cv-00007-KES-CDB (E.D. Cal. Aug. 13, 2025) · No. 1:25-cv-00007-KES-CDB · Decided August 14,
2025

SUMMARY

The United States District Court for the Eastern District of California grants in part and denies in part defendants’ motion to dismiss claims arising from alleged childhood sexual abuse. The court holds that the certificates of merit filed under California Code of Civil Procedure section 340.1 are sufficient and rejects defendants’ argument that a remote interview by a California-licensed mental health practitioner rendered the certificate invalid. The court dismisses the sixth cause of action for breach of mandatory duty and strikes the prayer for attorney’s fees.

OPINION

Jane Roe TT 80 v. Doe 1

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 JANE ROE TT 80, No. 1:25-cv-00007-KES-CDB 12 Plaintiff,

13 v. ORDER GRANTING IN PART AND

DENYING IN PART DEFENDANTS’

14 DOE 1, a corporation; DOE 2, a MOTION TO DISMISS corporation; DOE 3, an entity of
unknown 15 form; and DOE 4 to 100, Inclusive, Doc. 6 16 Defendants. 17 18 Plaintiff Jane Roe
TT 80 (“plaintiff”), proceeding under a fictitious name, brings this 19 claim for past childhood
sexual abuse against several church corporations and entities (referred to 20 as Does 1, 2, and 3)
and other unknown fictitious defendants (Does 4 to 100) pursuant to section 21 340.1 of the
California Code of Civil Procedure.¹ Does 1 and 2 (“defendants”) move to dismiss 22 23 1
Section 340.1 extends the statute of limitations for certain claims of childhood sexual assault. Cal.
Civ. Proc. Code, § 340.1. As currently effective, section 340.1 indicates that any claim of 24
childhood sexual assault alleged to have occurred on or before December 31, 2023, as here, “may
only be commenced pursuant to the applicable statute of limitations set forth in existing law as it
25 read on December 31, 2023.” § 340.1(p) (effective Jan. 1, 2024). The parties agree that the
version effective on December 31, 2023, applies to this case. See generally Docs. 6, 9 (citing to 26
Dec. 31, 2023 version). As noted below, the Court takes judicial notice of section 340.1 as 27

effective on December 31, 2023, see Doc. 6-10, and unless otherwise noted, all references and citations to section 340.1 in this Order are to the version of the statute in effect on that date. 28 1 the complaint for failure to state a claim. Doc. 6. The parties' briefs have been considered and, 2 for the reasons set forth below, defendants' motion to dismiss is granted in part and denied in 3 part.

4 I. BACKGROUND

5 On August 26, 2024, plaintiff filed this action in Kern County Superior Court, alleging 6 that she was sexually abused from 1980–1984 by a leader of church defendant Doe 1, who had 7 become plaintiff's stepfather through church-organized, -encouraged, and -sponsored courtship of 8 plaintiff's mother despite the church's knowledge that he had been previously incarcerated for 9 sexual assault of a minor. Doc. 1-2 ¶¶ 2, 27, 31. Relevant to the requirements of section 340.1, 10 plaintiff alleges she was over forty years old at the time she filed the action. Id. ¶ 3. Plaintiff 11 asserts six claims against defendants: (1) negligence; (2) negligent supervision of a minor; (3) 12 sexual abuse of a minor; (4) negligent hiring, supervision, and retention of an unfit employee; (5) 13 negligent failure to warn, train, or educate plaintiff; (6) and breach of mandatory duty to report 14 suspected child abuse. See generally *id.* Plaintiff's prayer for relief requests "an award of special 15 (economic) and general (non-economic) damages," attorney's fees, costs, and any further relief 16 deemed just and proper. Id. at 25. 17 As required by section 340.1, plaintiff lodged the required attorney and mental health 18 practitioner certificates of merit with the Kern County Superior Court and moved *ex parte* for 19 orders to serve the complaint on defendants. Doc. 1-5. Before the hearing on the motion took 20 place, and before being served, on January 2, 2025, defendants removed the matter to this Court 21 based on diversity jurisdiction. Doc. 1. Specifically, defendants asserted that more than \$75,000 22 was in controversy and that plaintiff, Doe 1, and Doe 2 are completely diverse. Id. Defendants 23 further assert that Doe 3 is not a separate legal entity from Doe 1, and has no corporate existence 24 apart from Doe 1, but rather is "an ecclesiastical unit" of Doe 1 and, therefore, its "citizenship" 25 should be disregarded for purposes of the diversity analysis because it cannot properly be a 26 defendant in this action. Id. 27 On January 10, 2025, defendants moved to dismiss this action pursuant to Federal Rule of 28 Civil Procedure 12(b)(6), or alternatively, 12(b)(1). Doc. 6. Defendants generally argue that the 1 mental health practitioner certificate of merit is legally insufficient and requests that this Court 2 conduct an *in camera* review of it to confirm.² Id. Plaintiff opposed the motion to dismiss, 3 Doc. 9, and defendants replied, Doc. 10.

4 On February 3, 2025, plaintiff moved to remand this case to state court. Doc. 11. On 5 February 4, 2025, the Court denied the motion to remand without prejudice for failure to comply 6 with the Court's Standing Order in Civil Cases. Doc. 12. Plaintiff did not refile her motion to 7 remand this matter.³ Thus, only defendant's motion to dismiss remains pending. 8 On February 12, 2025, this Court ordered plaintiff to file under seal on the docket copies 9 of the certificates of merit that plaintiff lodged with the Kern County Superior Court before this 10 case was removed

to this Court. Doc. 13. On February 26, 2025, plaintiff filed four certificates 11 of merit. Docs. 15–18. On July 23, 2025, plaintiff filed a corrected certificate of merit.⁴ Doc. 29. 12 This matter is now ripe for review. 13 2 Defendants’ motion also moves to dismiss plaintiff’s sixth cause of action and to strike 14 plaintiff’s prayer for attorneys’ fees and notes that plaintiff has agreed to the dismissal of both.

15 Doc. 6. Additionally, defendants request judicial notice of certificates of merits in other cases, documents regarding plaintiff’s residency and citizenship, and the version of section 340.1 of 16 California Code of Civil Procedure in effect as of December 31, 2023. Doc. 6–10. The Court takes judicial notice of the version of section 340.1 in effect on December 31, 2023. *Lee v. City 17 of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (court may take judicial notice of matters of public record). The Court also takes judicial notice of the other documents, but not as to the truth 18 of the matters asserted therein. 19 3 Plaintiff did not refile her motion to remand. Reviewing the matter of jurisdiction sua sponte, 20 the Court finds that defendants have sufficiently alleged this Court’s jurisdiction. In the notice of removal, a defendant need only include “plausible allegations of the jurisdictional elements.” 21 *Acad. of Country Music v. Cont’l Cas. Co.*, 991 F.3d 1059, 1068 (9th Cir. 2021). Defendants have done so here by alleging that plaintiff, Doe 1, and Doe 2 are completely diverse and that 22 Doe 3 is a sub-entity of Doe 1 and that its citizenship is properly disregarded. Doc. 1. 23 Additionally, courts have held on a motion to remand that the citizenship of a sub-entity Doe should not be considered when assessing diversity or that the sub-entity should be considered to 24 share the entity’s citizenship. See, e.g., *John Roe JJ 93 v. Doe 1*, Case No. 2:24-cv-09335-HDV- JPR, 2025 WL 522830, at *3 (C.D. Cal. Feb. 18, 2025) (collecting cases so holding); *John Roe 25 CS 88 v. Doe 1* (“*Roe CS 88 II*”), Case No. CV 24-11154-JFW(SSCx), 2025 WL 485121 (C.D. Cal. Feb. 13, 2025) (denying motion to remand because sub-entity of Doe 1 has Doe 1’s 26 citizenship). 27 4 The filing at docket entry 18 reflected a draft of one of the certificates of merit, rather than the 28 final executed version. Doc. 18. Docket entry 29 constitutes the final executed copy. Doc. 29.

1 III. LEGAL STANDARD

2 The purpose of a motion to dismiss pursuant to Rule 12(b)(6) is to test the legal 3 sufficiency of the complaint. *N. Star Int’l v. Ariz. Corp. Comm’n*, 720 F.2d 578, 581 (9th Cir. 4 1983). “Dismissal can be based on the lack of a cognizable legal theory or the absence of 5 sufficient facts alleged under a cognizable legal theory.” *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990). A plaintiff is required to allege “enough facts to state a claim to 7 relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “A 8 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw 9 the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. 10 Iqbal*, 556 U.S. 662, 678 (2009). The complaint must contain facts that “nudge [the plaintiff’s] 11 claims across the line from conceivable to plausible.” *Twombly*, 550 U.S. at 570. 12 In determining whether a complaint states a claim on which relief may be granted, the 13 Court accepts as true the

allegations in the complaint and construes the allegations in the light 14 most favorable to the plaintiff. *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984). However, 15 the Court need not assume the truth of legal conclusions cast in the form of factual allegations. 16 *Iqbal*, 556 U.S. at 680. While Rule 8(a) does not require detailed factual allegations, “it demands 17 more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Id.* at 678. A 18 pleading is insufficient if it offers mere “labels and conclusions” or “a formulaic recitation of the 19 elements of a cause of action.” *Twombly*, 550 U.S. at 555; see also *Iqbal*, 556 U.S. at 678 20 (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory 21 statements, do not suffice.”). Moreover, it is inappropriate to assume that the plaintiff “can prove 22 facts that it has not alleged or that the defendants have violated the . . . laws in ways that have not 23 been alleged.” *Associated Gen. Contractors of Cal., Inc. v. Cal. State Council of Carpenters*, 459 24 U.S. 519, 526 (1983).

25 IV. ANALYSIS

26 A. Motion to Dismiss Based on Mental Health Practitioner’s Certificate of Merit 27 Defendants argue this case should be dismissed because they suspect that the mental 28 health practitioner certificate of merit that plaintiff filed fails to meet the requirements set forth by 1 section 340.1(g) of title 16 of the California Code of Civil Procedure. See generally Doc. 6. 2 In an action for damages, as here, section 340.1 requires “plaintiff[s] 40 years of age or 3 older at the time the action is filed [to] file certificates of merit as specified in subdivision (g).” 4 Cal. Civ. Proc. Code § 340.1(f). Relevant to defendants’ motion, subdivision (g) provides: 5 [A] [c]ertificate[] of merit shall be executed . . . by a licensed mental health practitioner selected by the plaintiff declaring, . . . as follows, 6 [and] setting forth the facts which support the declaration: 7 . . . 8 (2) That the mental health practitioner consulted is licensed to practice and practices in this state and is not a party to the action, 9 that the practitioner is not treating and has not treated the plaintiff, and that the practitioner has interviewed the plaintiff and is 10 knowledgeable of the relevant facts and issues involved in the particular action, and has concluded, on the basis of the practitioner’s 11 knowledge of the facts and issues, that in the practitioner’s professional opinion there is a reasonable basis to believe that the 12 plaintiff had been subject to childhood sexual abuse. 13 § 340.1(g)(2). 14 Section 340.1 further provides that “[a] defendant shall not be served, and the duty to 15 serve a defendant with process does not attach, until the court has reviewed the certificates of 16 merit . . . and has found, in camera, based solely on those certificates of merit, that there is 17 reasonable and meritorious cause for the filing of the action against that defendant.” § 340.1(i). 18 “At that time, the duty to serve that defendant with process shall attach.” *Id.* The failure to 19 comply with the requirements set forth in section 340.1 is grounds for a demurrer or a motion to 20 strike. Cal. Civ. Proc. Code § 340.1(k). 21 Pursuant to section 340.1, defendants have not seen the certificate of merit, but state that 22 plaintiff’s counsel informed them that it was her standard practice to have the California mental 23 health practitioner conduct the interview via Zoom. Doc. 6-1 ¶ 2. Based on this statement and 24 the fact

that plaintiff resides in Texas, defendants argue that the California mental health practitioner in this case likely conducted the interview via Zoom, with plaintiff being physically present in Texas during the interview. See generally Doc. 6; see also Doc. 6-1 ¶ 2. Defendants cite section 1396.8 of the California Code of Regulations to argue that if the practitioner conducted the interview of plaintiff via Zoom while plaintiff was in Texas, then the practitioner acted outside the scope of his or her license, and thus, argue he or she cannot be considered a licensed mental health practitioner for purposes of the certificate of merit as required by section 340.1(g)(2). Defendants have not cited any case law to support their position. See generally Doc. 6. And the few courts in this circuit to have considered this “novel” argument have rejected it. See *John Roe CS 88 v. Doe 1* (“*Roe CS 88 I*”), Case No. CV 24-11154-JFW(SSCx), 2025 WL 8 824049, at *2 (C.D. Cal. Feb. 13, 2025) (“Even if the California-licensed mental health practitioner conducted a Zoom interview of [p]laintiff while [p]laintiff was physically present in Nevada, that does not render the mental health practitioner ‘unlicensed.’”); *Roe JB 65 v. Church of Jesus Christ of Latter-Day Saints*, Case No. 24-cv-02349-AJB-MSB, 2025 WL 776634, at *5–6 (S.D. Cal. Mar. 11, 2025) (noting that, under similar factual circumstances, the state court had reviewed the mental health practitioner certificate of merit prior to the case’s removal and had found it to be sufficient); *Estate of Roe DM 101 v. Doe 1*, Case No. 24-cv-2344-DMS-DLB, 2025 WL 1167370, at *2–3 (S.D. Cal. Apr. 22, 2025) (noting that the state court had previously found the certificate of merit sufficient and separately rejecting the argument that conducting the interview via Zoom would make the certificate of merit legally insufficient as “[t]here is no caselaw indicating that the nature and location of the interview affect a certificate’s validity”). This Court is persuaded by these courts’ conclusions and joins them in declining to adopt this argument.⁵ As other courts have noted, “[w]hether the mental health practitioner’s interview of [p]laintiff occurred via Zoom in violation of the California Rules of Professional Conduct or the laws governing mental health practitioners in [Texas] is a matter for the California Board of

Moreover, section 1396.8 of title 16 of the California Code of Regulations, which defendant relies on for the proposition that the California practitioner was acting outside of his or her license to conduct the interview, governs a licensed mental health professional’s ability “to provide psychological health care services . . . [t]o [his or her] client” via telehealth when either the practitioner or the client is outside the state of California. Cal. Code Regs. tit 16, § 1396.8(a) (emphases added). Here, as noted below, the mental health professional declared he or she was not treating and has never treated plaintiff. As the mental health professional was not providing psychological health care services to a client, it appears this section is inapplicable to this case. Behavioral Sciences and does not impact the Court’s conclusion that [the certificate of merit complies with section 340.1(g)(2) and] there is a reasonable and meritorious cause for the filing of the action.” *Roe CS 88 I*, 2025 WL 824049, at *2. Indeed, the mental health practitioner certificate of merit declares, with facts in support thereof, that: (1) the mental health practitioner is licensed to practice and practices in California; (2) the mental health

practitioner is not a party to the action; (3) the mental health practitioner is not treating and has not treated plaintiff; (4) the mental health practitioner has interviewed plaintiff and is knowledgeable of the relevant facts and issues; and (5) based on that interview, the mental health practitioner concluded in his or her professional opinion that there is a reasonable basis to believe that plaintiff experienced childhood sexual abuse. Doc. 29. The certificate therefore meets the requirements of section 340.1(g)(2). Additionally, the certificates of merit filed by plaintiffs' attorneys are sufficient pursuant to 340.1(g)(1). Docs. 15–17. Based “solely on those certificates of merit,” the Court concludes that “there is a reasonable and meritorious cause” for the filing of this action against defendants.⁶ § 340.1(i). Accordingly, defendant's motion to dismiss plaintiff's claims due to the substance of the mental health practitioner certificate of merit is denied. 17 B. Motion to Strike Plaintiff's Prayer for Attorneys' Fees and Motion to Dismiss Plaintiff's Sixth Cause of Action for Breach of Mandatory Duty 19 Defendants move to strike plaintiff's prayer for attorneys' fees, arguing that there is no statute or contract authorizing the recovery of attorneys' fees in this action. Doc. 6 at 15. They 21 also move to dismiss plaintiff's sixth cause of action for breach of mandatory duty on the grounds 22 that clergy were not mandatory reporters of abuse at the time of plaintiff's alleged abuse. Id. 23 Plaintiff does not oppose either motion. Doc. 9 at 9. 24 6 Whether plaintiff can ultimately succeed on a claim for damages against Doe 3, given the 25 contention that it is a sub-entity of Doe 1, is not before the Court at this time. See Doc. 1 (defendants' notice of removal arguing that, as a matter of law, a claim cannot be brought against 26 a sub-entity); but see *Roe* CS 88 II, 2025 WL 824049, at *2 (finding meritorious cause for filing 27 action against Does 1, 2, and 3, where Doe 3 was alleged to be sub-entity of Doe 1, and subsequently denying motion to remand based on sub-entity's citizenship given finding that sub- 28 entity shared citizenship with main entity). 1 Accordingly, defendants' motion to strike plaintiff's prayer for attorneys' fees and 2 | defendant's motion to dismiss plaintiff's sixth cause of action for breach of mandatory duty are 3 | granted.

4] V. CONCLUSION AND ORDER

5 Based upon the foregoing, defendants' motion to dismiss, Doc. 6, is granted in part and 6 | denied in part. The motion is granted as to plaintiff's prayer for attorneys' fees and plaintiff's 7 | sixth cause of action for breach of mandatory duty. Otherwise, defendant's motion to dismiss 8 | plaintiff's claims due to the substance of the mental health practitioner certificate of merit is 9 | denied. 10

11 | TPIS SO ORDERED. _

12 Dated: _ August 13, 2025 4h

3 UNITED STATES DISTRICT JUDGE

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