

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Estate of Jane Roe DM 101 v. Doe 1

Estate of Jane Roe DM 101 · No. 24-cv-2344-DMS-JLB · Decided April 22, 2025

SUMMARY

The United States District Court for the Southern District of California denied Defendants’ motion to dismiss claims arising from alleged childhood sexual abuse. The court declined to conduct an in camera review of the plaintiff’s certificate of merit and held that correcting an already timely filed certificate was not barred by California’s 60-day filing requirement.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Dana M. Sabraw
JURISDICTION	United States District Court for the Southern District of California
DECIDED	April 22, 2025
DOCKET	24-cv-2344-DMS-JLB
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved to dismiss the removed complaint under Federal Rules of Civil Procedure 12(b)(6) and 12(b)(1), challenging the substance and timeliness of a California certificate of merit required for childhood-sexual-abuse claims.
STANDARD OF REVIEW	Under Rule 12(b)(6), the court accepts well-pleaded factual allegations as true, construes the pleadings in the light most favorable to the nonmoving party, and determines whether the complaint states a facially plausible claim for relief. Conclusory allegations, unwarranted deductions, and unreasonable inferences need not be accepted. The court reviewed the certificate-of-merit issues under the requirements of California Code of Civil Procedure section 340.1.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order

TOPICS

- motions to dismiss
- civil procedure
- statutory interpretation
- negligence
- personal injury

PRACTICE AREAS

civil procedure

personal injury

negligence

childhood sexual abuse claims

QUESTIONS PRESENTED

1. Whether the federal court should conduct an in camera review of the substance of a certificate of merit after the California Superior Court had reviewed it and authorized service.
2. Whether a certificate of merit filed with the complaint may be corrected after the sixty-day period in California Code of Civil Procedure section 340.1(g)(3), where the original certificate was timely filed and the state court permitted the correction.
3. Whether Defendants' challenges to the certificate of merit required dismissal under Federal Rule of Civil Procedure 12(b)(6) or 12(b)(1).

HOLDINGS

1. The court declined to conduct a second in camera review of the certificate of merit and denied dismissal based on the certificate's alleged substantive deficiencies.
2. A correction to an already timely filed certificate of merit is not barred by California Code of Civil Procedure section 340.1(g)(3)'s sixty-day filing requirement, particularly where the state court authorized the correction.

KEY QUOTATIONS

"To survive a motion to dismiss, 'a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" (at 2)

"Even if the California-licensed mental health practitioner conducted a Zoom interview of Plaintiff while Plaintiff was physically present in Nevada, that does not render the mental health practitioner 'unlicensed'." (at 4)

"The Court rejects this argument. First, the text of the provision refers only to the filing of the certificate." (at 5)

FACTUAL BACKGROUND

Plaintiff Estate of Jane Roe DM 101 alleges that Jane Roe suffered sexual, physical, and psychological abuse by religious authorities affiliated with Defendants between 1961 and 1970. The complaint asserts five survival causes of action, including negligence, negligent supervision, sexual abuse of a minor, negligent hiring or retention, and negligent failure to warn, train, or educate. Plaintiff filed a certificate of merit with the complaint, and the California Superior Court later permitted Plaintiff to correct the certificate to update a party name. Defendants nevertheless sought dismissal based on the alleged substance of the certificate, including a remote interview conducted while Roe was in Nevada, and on the timing of the correction.

PROCEDURAL HISTORY

Plaintiff filed the action in San Diego County Superior Court on August 26, 2024. Defendant Doe 1 removed the action to the Southern District of California under the diversity jurisdiction and removal statutes. The Superior Court reviewed the certificate of merit, initially found it insufficient as to a party name, permitted correction, and allowed service. The federal court denied Defendants' motion to dismiss.

DISPOSITION

other

CASES CITED

- Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Manzarek v. St. Paul Fire & Marine Insurance Co., 519 F.3d 1025, 1031 (9th Cir. 2008)
- In re Gilead Sciences Securities Litigation, 536 F.3d 1049, 1055 (9th Cir. 2008)
- Sprewell v. Golden State Warriors, 266 F.3d 979, 988 (9th Cir. 2001)
- Roe JB 65 v. Church of Jesus Christ of Latter-Day Saints, 2025 WL 776634, at *3-*5 (S.D. Cal. Mar. 11, 2025)
- Roe v. Doe 1, 2025 WL 824049, at *2 (C.D. Cal. Feb. 13, 2025)
- Mistriel v. County of Kern, 2012 WL 2089804, at *3 (E.D. Cal. June 8, 2012)
- Von Bradley v. Department of Children & Family Services, 2018 WL 7291450, at *9 (C.D. Cal. Dec. 12, 2018)
- Van Bradley v. Department of Children & Family Services, 2019 WL 587282 (C.D. Cal. Feb. 13, 2019)
- Jackson v. Doe, 192 Cal. App. 4th 742, 754 (2011)