

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Lund v. Datzman, et al.

Lund · No. 2:19-cv-02287-TLN-DMC · Decided September 30, 2025

OPINION

Lund

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10

11 ERIC LUND,

12 Plaintiffs, No. 2:19-cv-02287-TLN-DMC 13 14 v. ORDER JEFFREY DATZMAN, et al., 15
Defendants. 16 17 18 This matter is before the Court on Plaintiff Eric Lund’s (“Plaintiff”) three
Motions to 19 Strike.¹ (ECF Nos. 140–42.) Plaintiff moves to strike defenses and affirmative
defenses from the 20 First Amended Answers of Defendants: (1) City of Vacaville, Jeffrey
Datzman, Steven Carey, 21 Mark Ferreira, and Chris Lechuga (“City Defendants”) (ECF No.
140); (2) County of Solano, 22 Krishna Abrams, and Ilana Shapiro (“County Defendants”) (ECF
No. 141); and (3) Samuel 23 Dickson, Steve West, Kevin Knopf, John Blencowe, Warren Stanley,
Joseph Farrow, Nick 24 Norton, Helena Williams, Kevin Domby, David Varao, and Ryan
Duplissey (“State Defendants”) 25 (ECF No. 142) (collectively, “Defendants”). The motions are
fully briefed. (ECF Nos. 140–45, 26 1 Though Plaintiff styles the motions against City and
County Defendants as Motions to 27 Strike and Motions to Dismiss (ECF Nos. 140–141), the
Court construes these to be only Motions to Strike because, as discussed below, Plaintiff’s
contention that City and County Defendants’ 28 answers contain counterclaims mistakenly
designated as defenses is without merit. 1 147–49.) 2 For the reasons set forth below, the Court
DENIES Plaintiff’s motions in full.

3 I. FACTUAL AND PROCEDURAL BACKGROUND

4 Until 2014, Plaintiff worked as a sworn law enforcement employee for the California
5 Highway Patrol (“CHP”). (ECF No. 109 at 5.) On October 16, 2014, officers from the Vacaville
6 Police Department (“VPD”) arrested Plaintiff. (Id.) Plaintiff was later charged for possession of
7 child pornography and prosecuted by the Solano County District Attorney’s Office. (Id.) On
8 October 30, 2018, Plaintiff was convicted of that charge and sentenced to five years in prison.
9 (Id.) Plaintiff fully served his sentence and is no longer in custody. (Id.) City Defendants 10
Datzman, Ferreira, Lechuga, and Carey were VPD officers who performed various searches and

11 seizures leading to Plaintiff's arrest. (Id. at 5–6, 8–9, 11–12, 19–20.) State Defendants Dickson,
12 West, Knopf, Blencowe, Stanley, Farrow, Norton, Williams, Domby, Varao, and Duplissey
were 13 CHP officers who were involved in various aspects of the investigation and subsequent
14 termination of Plaintiff from CHP employment. (Id. at 8–9, 13–16, 18–19, 25–28.) County 15
Defendants Abrams and Shapiro were district attorneys who were involved in Plaintiff's criminal
16 prosecution. (Id. at 20–22). 17 Plaintiff commenced the instant action on November 12, 2019,
alleging 129 causes of 18 action. (ECF No. 1.) Plaintiff filed the operative Third Amended
Complaint ("TAC") on

19 November 7, 2022, alleging 22 claims related to Plaintiff's arrest and conviction. (ECF No.
109.)

20 Defendants moved to dismiss the TAC on various grounds. (ECF Nos. 114, 117, 118.) The 21
Court granted in part and denied in part the motions to dismiss and gave Plaintiff leave to file an
22 amended complaint. (ECF No. 130.) Plaintiff did not file an amended complaint, and the case
23 proceeded on the remaining claims in the TAC. Defendants filed their operative answers on
24 December 30, 2024. (ECF Nos. 136–138.)

25 II. STANDARD OF LAW

26 Federal Rule of Civil Procedure ("Rule") 12(f) provides that a court "may strike from a 27
pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter."
28 "[T]he function of a 12(f) motion to strike is to avoid the expenditure of time and money that 1
must arise from litigating spurious issues by dispensing with those issues prior to trial[.]" Sidney-
2 Vinstein v. A.H. Robins Co., 697 F.2d 880, 885 (9th Cir. 1983). Rule 12(f) motions to strike, 3
however, are "generally regarded with disfavor because of the limited importance of pleading in 4
federal practice, and because they are often used as a delaying tactic." Neilson v. Union Bank of 5
Cal., N.A., 290 F. Supp. 2d 1101, 1152 (C.D. Cal. 2003). "Ultimately, whether to grant a motion 6
to strike lies within the sound discretion of the district court." Id. Unless it would prejudice the 7
opposing party, courts freely grant leave to amend stricken pleadings. Wyshak v. City Nat'l Bank,
8 607 F.2d 824, 826 (9th Cir. 1979); see also Fed. R. Civ. P. 15(a)(2). 9 This Court has previously
found that the heightened pleading standard set forth in Bell 10 Atlantic Corp. v. Twombly, 550
U.S. 544 (2007) and Ashcroft v. Iqbal, 556 U.S. 662 (2009) does 11 not apply to affirmative
defenses asserted in a defendant's answer. Dodson v. Gold Country 12 Foods, Inc., No. 2:13-cv-
0336-TLN-DAD, 2013 WL 5970410 (E.D. Cal. Nov. 4, 2013). Instead, 13 as the Ninth Circuit
confirmed in Wyshak, "[t]he key to determining the sufficiency of pleading 14 an affirmative
defense is whether it gives plaintiff fair notice of the defense." Wyshak, 607 F.2d 15 at 827. Under
the fair notice standard, a defendant is only required to "state the nature and 16 grounds for the
affirmative defense" rather than plead a detailed statement of the facts upon 17 which the defense
is based. Kohler v. Islands Rests., LP ("Kohler I"), 280 F.R.D. 560, 564 (S.D.

18 Cal. 2012). A pleading is only required to describe each defense in "general terms" if it gives
the

19 plaintiff fair notice of the nature of the defense. *Kohler v. Flava Enters., Inc.* (“Kohler II”), 779
20 F.3d 1016, 1019 (9th Cir. 2015). For well-established defenses, merely naming them may be 21
sufficient. See *Ganley v. Cnty. of San Mateo*, No. 06-cv-3923-TEH, 2007 WL 902551, at *2 22
(N.D. Cal. Mar. 22, 2007). “[A]n affirmative defense is legally insufficient only if it clearly lacks
23 merit ‘under any set of facts the defendant might allege.’” *Kohler I*, 280 F.R.D. at 564
(quotation 24 omitted). 25 “If a court is in doubt as to whether the challenged matter may raise an
issue of fact or 26 law, the motion to strike should be denied, leaving the assessment of the
sufficiency of the 27 allegations for adjudication on the merits after proper development of the
factual nature of the 28 claims through discovery.” *Springer v. Fair Isaac Corp.*, No. 14-CV-
02238-TLN-AC, 2015 WL 1 7188234, at *2 (E.D. Cal. Nov. 16, 2015) (citing *Whittlestone, Inc. v.*
Handi-Craft Co., 618 F.3d 2 970, 974–75 (9th Cir. 2010)). “Even when the defense under attack
presents a purely legal 3 question, courts are reluctant to determine disputed or substantial
questions of law on a motion to 4 strike.” *S.E.C. v. Sands*, 902 F. Supp. 1149, 1166 (C.D. Cal.
1995), *aff’d sub nom. S.E.C. v. First 5 Pac. Bancorp.*, 142 F.3d 1186 (9th Cir. 1998).

6 III. ANALYSIS

7 Plaintiff moves to strike all, except one, of Defendants’ combined six defenses and 8 seventy-
two affirmative defenses.² Because the same arguments apply to all three motions, the 9 Court
considers them together unless otherwise noted. 10 Plaintiff primarily relies on the same three
grounds as the basis for which to strike 11 Defendants’ defenses and affirmative defenses: (1)
redundant; (2) insufficient pleading; and (3) 12 insufficient defense. (See generally ECF Nos.
140–142.) Plaintiff also raises arguments about 13 immateriality, negative defenses, counterclaims
mistakenly designated as defenses, reservation of 14 defenses, and prejudice. The Court begins by
addressing Plaintiff’s three primary arguments, 15 followed by discussion of the remaining issues.
16 A. Redundant 17 Plaintiff argues the majority of Defendants’ defenses and affirmative defenses
should be 18 stricken because they are either “redundant of denials made elsewhere in the
pleading” generally 19 or are redundant of other specific defenses. (See, e.g., ECF No. 140-1 at 9
(City); ECF No. 141-1 20 at 13–14 (County); ECF No. 142-1 at 11 (State).) Defendants respond
by explaining that their 21 defenses and affirmative defenses are not redundant, and Plaintiff’s
assertion of redundancy does 22 not warrant striking them from Defendants’ answers. (ECF No.
143 at 10–11 (State); ECF No. 23 144 at 5 (City); ECF No. 145 at 9–10 (County).) 24
“Redundant” matter is that which “consists of allegations that constitute a needless 25 repetition
of other averments.” *Sagan v. Apple Comput., Inc.*, 874 F. Supp. 1072, 1079 (C.D. Cal. 26 27 2
Plaintiff does not move to strike State Defendants’ eleventh affirmative defense. Additionally, the
Court notes County Defendants’ Amended Answer does not contain a twenty- 28 fourth
affirmative defense. 1 1994) (citation omitted). Having reviewed the defenses and affirmative
defenses that Plaintiff 2 seeks to strike on this basis, the Court finds they are not redundant within
the meaning of Rule 3 12(f). Accordingly, Defendants’ defenses and affirmative defenses will not
be stricken for the 4 reason of redundancy. 5 B. Insufficient Pleading 6 Plaintiff argues

Defendants’ defenses and affirmative defenses should be stricken because 7 they are insufficiently pled. (See, e.g., ECF No. 140-1 at 9 (City); ECF No. 141-1 at 10 (County); 8 ECF No. 142-1 at 8–9 (State).) In support of this argument for each defense and affirmative 9 defense, Plaintiff states that “[w]hile Plaintiff acknowledges that he has been given notice of the 10 nature of the defense and acknowledges he is not entitled to a detailed statement of facts, he has 11 clearly not been given fair notice of the grounds of the defense.” (ECF No. 142-1 at 8 (emphasis 12 in original).) Plaintiff follows this recitation with questions presumably unanswered by the 13 defenses and affirmative defenses as written. (See, e.g., ECF No. 140-1 at 10–11 (“What did City 14 Defendants observe Plaintiff doing that could legally ‘provoke’ an unreasonable search or the 15 failure to give notice of a government seizure? . . . What collateral source recovery do City 16 Defendants believe Plaintiff has received? . . . How were City Defendants damaged by Plaintiff to 17 justify a request for a set-off?”) In opposition, Defendants argue Plaintiff has been provided fair 18 notice for each defense and affirmative defense. (ECF No. 143 at 7–8 (State); ECF No. 144 at 8– 19 13 (City); ECF No. 145 at 11–14 (County).) 20 “[T]he ‘fair notice’ required by the pleading standards only requires describing the 21 defense in ‘general terms.’” Kohler II, 779 F.3d at 1019. The Court has reviewed the pleadings 22 and finds Defendants have provided fair notice of the nature and grounds of their defenses and 23 affirmative defenses. Defendants are not required to give a detailed statement of facts, and it is 24 clear from the type of information Plaintiff contends is missing that what he demands is more 25 than what federal pleadings standards require. Accordingly, Defendants’ defenses and 26 affirmative defenses will not be stricken for the reason of being insufficiently pled. 27 // 28 // 1 C. Insufficient Defense 2 Plaintiff argues Defendants’ affirmative defenses should be stricken as insufficient 3 defenses. (See, e.g., ECF No. 140-1 at 11 (City); ECF No. 141-1 at 10 (County); ECF No. 142-1 4 at 9 (State).) In opposition, Defendants argue their affirmative defenses are directly relevant to 5 the facts and law in this case and supported by factual allegations. (ECF No. 143 at 8–9 (State); 6 ECF No. 144 at 8–13 (City); ECF No. 145 at 11–18 (County).) 7 “[A]n affirmative defense is legally insufficient only if it clearly lacks merit “under any 8 set of facts the defendant might allege.” Kohler I, 280 F.R.D. at 564. The Court has reviewed the 9 pleadings and agrees with Defendants that their affirmative defenses are proper and related to the 10 facts at issue in this case. The Court notes that for several affirmative defenses, Plaintiff’s 11 arguments about their legal sufficiency are based on conjecture about what the evidence will 12 uncover and what theories will be advanced. For example, the parties’ arguments on the Rooker- 13 Feldman and Heck doctrines (see ECF No. 142-1 at 17–18; cf. ECF No. 143 at 9) and the 14 assumption of the risk defense (see ECF No. 140-1 at 11; cf. ECF No. 144 at 8) highlight how the 15 viability of many defenses will depend on facts that are currently in dispute. While it is certainly 16 possible that after discovery, the evidence will be such that a particular defense is no longer 17 available, the Court is unable to make this determination at the pleading stage. Accordingly, 18 Defendants’ affirmative defenses will not be stricken for the reason of legal insufficiency.3 19 D. Additional Arguments 20 In

addition to Plaintiff's three main arguments, Plaintiff argues some affirmative defenses 21 are immaterial or are negative defenses or counterclaims mistakenly designated as defenses. 22 Plaintiff also challenges County Defendants' reservation of defenses and contends Plaintiff has 23 made a showing of prejudice. The Court considers each additional argument in turn. 24 // 25 3 State Defendants concede that the reference to the Ralph Act, Cal. Civ. Code § 51.7 in 26 their first affirmative defense was included inadvertently and offer to strike it from their answer. 27 (ECF No. 143 at 8.) If State Defendants seek to amend their answer at a later point in this case, State Defendants should remove the reference to the Ralph Act. However, in its discretion, the 28 Court finds Defendants' concession makes striking the reference unnecessary at this time. 1 2 i. Immaterial 3 Plaintiff claims some of County and State Defendants' affirmative defenses contain 4 immaterial matter. (See, e.g., ECF No. 141-1 at 10 (County); ECF No. 142-1 at 13 (State).) 5 County and State Defendants do not appear to challenge this characterization. (See generally 6 ECF No. 143 (State); ECF No. 144 at 8 (County).) 7 "Immaterial" matter is that which has no essential or important relationship to the claim 8 for relief or the defenses being pleaded." *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 9 1993) (citation omitted) (overruled on other grounds, 510 U.S. 517 (1994)). At this juncture, the 10 Court is not convinced the matter identified by Plaintiff has no important relationship to the 11 claims in this case. The Court, in its discretion, does not find the matter identified warrants being 12 stricken. If County and State Defendants seek to amend their answers at a later date, Defendants 13 are warned to review their pleadings closely and remove any matter they agree is immaterial. 14 ii. Negative Defenses and Counterclaims Mistakenly Designated as 15 Defenses 16 Plaintiff claims some of County and State Defendants' affirmative defenses are instead 17 negative defenses that should be dismissed for failing to state a claim. (See, e.g., ECF No. 141-1 18 at 10 (County); ECF No. 142-1 at 12 (State).) County and State Defendants contest this 19 characterization and the Court agrees. (ECF No. 143 at 9 (State); ECF No. 145 at 10 (County).) 20 Even if these were in fact negative defenses mislabeled as affirmative defenses, "simple 21 mislabeling on [Defendants'] part is not grounds for striking" the defenses. *Kohler I*, 280 F.R.D. 22 at 567. "Where a Defendant pleads a negative defense as an affirmative defense, courts should 23 'treat it as a specific denial'" and not strike the language. *Sundby v. Marquee Funding Grp., Inc.*,

24 No. 19-cv-0390-GPC-AHG, 2019 WL 5963907, at *3 (S.D. Cal. Nov. 13, 2019) (quoting *Sesto v.*

25 *Slaine*, 171 F. Supp. 3d 194, 206 (S.D.N.Y. 2016). 26 Plaintiff also argues that City Defendants improperly assert a counterclaim for "all 27 reasonable expenses" (ECF No. 140-1 at 10) and County Defendants do the same for all 28 "necessary and reasonable defense costs" (ECF No. 141-1 at 20). The Court has reviewed the 1 pleadings and is not convinced Plaintiff's characterization is correct. The references to costs and 2 expenses appear within an adequately pleaded defense and affirmative defense. (ECF No. 137 at 3 25 (City Defendants' fourth defense); ECF No. 138 at 40 (County Defendants' twenty-fifth 4 affirmative defense).) It does not appear

City and County Defendants are presently seeking costs and expenses against Plaintiff by way of these references. The Court will not strike or dismiss on this basis. iii. Reservation of Defenses Plaintiff seeks to strike County Defendants' reservation of defenses because it is not an affirmative defense. (ECF No. 141-1 at 24–25.) County Defendants agree they do not plead reservation of defenses as an affirmative defense and explain that they include the reservation to state what County Defendants are entitled to as a matter of course. (ECF No. 145 at 14–15.) While courts have stricken a reservation of defenses where it was pleaded as an affirmative defense, because County Defendants do not, such action is unnecessary here. See, e.g., *E.E.O.C. v. Timeless Invs., Inc.*, 734 F. Supp. 2d 1035, 1055 (E.D. Cal. 2010); *Polk v. Legal Recovery Law Offices*, 291 F.R.D. 485, 493 (S.D. Cal. 2013). County Defendants were not required to expressly reserve the right to add affirmative defenses at a later time under Rule 15, however their decision to do so is not prejudicial. See *Harris v. Chipotle Mexican Grill, Inc.*, 303 F.R.D. 625, 630 (E.D. Cal. 2014) (declining to strike the reservation of defenses because Plaintiff failed to show they would be prejudiced by the request). The Court thus declines to strike County Defendants' reservation of defenses. iv. Prejudice Finally, though not required by Rule 12(f), Plaintiff argues that he is prejudiced because if Defendants are allowed to proceed on their defenses and affirmative defenses, "Plaintiff will be forced to waste time and resources during discovery[.]" (ECF No. 142-1 at 19.) Defendants disagree and instead explain that "[Plaintiff] has plead numerous claims and sued many defendants which will, in and of itself, require extensive discovery." (ECF No. 143 at 11 (State); see also ECF No. 144 at 13 (City); ECF No. 145 at 15 (County).) The Court is not persuaded that the volume of discovery in this case creates an undue burden on Plaintiff so as to necessitate granting Plaintiff's motion to strike Defendants' defenses and affirmative defenses.

IV. CONCLUSION

For the foregoing reasons, Plaintiff's Motions to Strike City Defendants (ECF No. 140), County Defendants (ECF NO. 141), and State Defendants' (ECF No. 142) First Amended Answers are DENIED. IT IS SO ORDERED. DATE: September 30, 2025

TROY L. NUNLEY

CHIEF UNITED STATES DISTRICT JUDGE

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