

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
CALIFORNIA

**Evans Hotels, LLC v. Unite Here! Local 30**

No. 18-cv-2763-RSH-AHG (S.D. Cal. Sept. 12, 2025) · No. 18-cv-2763-RSH-AHG · Decided September 12,  
2025

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OPINION

Evans Hotel, LLC v. Unite Here! Local 30

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 EVANS HOTELS, LLC, et al. Case No.: 18-cv-2763-RSH-AHG 12 Plaintiffs,

ORDER ADOPTING MAGISTRATE

13 v. JUDGE’S REPORT AND

RECOMMENDATION AND

14 UNITE HERE! LOCAL 30, et al.

GRANTING DEFENDANTS’

15 Defendants. MOTION TO STRIKE 16 [ECF Nos. 168, 200] 17 18 Pending before the Court is  
Defendants’ Motion to Strike (the “Motion”) directed to 19 Plaintiff’s Third Amended Complaint.  
ECF No. 168. On August 7, 2025, U.S. Magistrate 20 Judge Allison H. Goddard issued a Report  
and Recommendation (the “Report”) in favor of 21 granting the Motion. ECF No. 200. Judge  
Goddard issued the Report following briefing by 22 the Parties and intensive attempts at  
compromise led by Judge Goddard. Id. at 5. 23 Plaintiffs have filed objections to the R&R, and  
Defendants have responded. ECF 24 Nos. 201, 205. As set forth below, the Court adopts the R&R  
and grants the Motion. 25

I. LEGAL STANDARD

26 Federal Rule of Civil Procedure 72(a) provides that a party may serve and file 27 objections to  
the order of a magistrate judge, on a non-dispositive matter referred to the 28 1 magistrate judge to  
hear and decide, within 14 days. “The district judge in the case must 2 consider timely objections  
and modify or set aside any part of the order that is clearly 3 erroneous or is contrary to law.” Fed.  
R. Civ. P. 72(a).

4 II. ANALYSIS

5 Defendants object to the Report on two grounds. First, they contend that the Report 6 applies the  
incorrect legal standard for a motion to strike. ECF No. 201 at 5. Second, they 7 argue that the  
Report goes beyond the scope of Rule 12(f) by improperly limiting 8 discovery. Id. at 10. 9 A. The  
U.S. Magistrate Judge Applied the Correct Legal Standard 10 Federal Rule of Civil Procedure

12(f) allows a court to strike “any redundant, 11 immaterial, impertinent, or scandalous matter” from a pleading. Fed. R. Civ. P. 12(f). The 12 Ninth Circuit has explained: 13 “[T]he function of a 12(f) motion to strike is to avoid the expenditure of time and money that must arise from litigating spurious issues by 14 dispensing with those issues prior to trial ....” *Sidney-Vinstein v. A.H. 15 Robins Co.*, 697 F.2d 880, 885 (9th Cir.1983). “‘Immaterial’ matter is that which has no essential or important relationship to the claim for 16 relief or the defenses being pleaded.” 5 *Charles A. Wright & Arthur R. 17 Miller*, Federal Practice and Procedure § 1382, at 706–07 (1990). “‘Impertinent’ matter consists of statements that do not pertain, and are 18 not necessary, to the issues in question.” *Id.* at 711. Superfluous 19 historical allegations are a proper subject of a motion to strike. See, e.g., *Healing v. Jones*, 174 F. Supp. 211, 220 (D. Ariz.1959). 20 21 *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993), *rev’d on other grounds*, 510 22 U.S. 517 (1994); accord *Whittlestone, Inc. v. Handi-Craft Co.*, 618 F.3d 970, 974 (9th Cir. 23 2010). 24 Plaintiffs contend that the Report “consistently, and incorrectly, applies a ‘necessity 25 standard’ to determine whether allegations should be stricken from the TAC.” ECF No. 26 201 at 5. Plaintiffs cite portions of the Report that describe certain matter in the TAC as 27 “redundant or unnecessary,” as “not essential or necessary,” or simply as “unnecessary.”

28 *Id.* at 5-6. Plaintiffs argue that the correct legal standard is that articulated by the district 1 court in *Rosales v. FitFlop USA, LLC*, 882 F. Supp. 2d 1168, 1179 (S.D. Cal. 2012), under 2 which “courts generally grant a motion to strike only where ‘is it clear that the matter to be 3 stricken could have no possible bearing on the subject matter of the litigation.’” *Rosales*, 4 882 F. Supp. 2d at 1179 (quoting *Walters v. Fidelity Mortg. Of Cal.*, 730 F. Supp. 2d 1185, 5 1196 (E.D. Cal. 2010)). 6 The Report recites and applies the correct legal standard under Ninth Circuit 7 precedent. The Report determines that the challenged allegations are “immaterial and 8 redundant” to Plaintiffs’ remaining claim in the TAC, terms used in Rule 12(f) itself. ECF

9 No. 200 at 11-19. The Report indeed describes certain allegations as “unnecessary,” 10 consistent with the Ninth Circuit’s explication of “impertinent,” another term used in Rule 11 12(f), which overlaps in meaning with “immaterial” and “redundant.” See *Fantasy*, 984 12 F.2d at 1527. The Report also determines, as an alternative basis for granting the motion, 13 that the challenged allegations should be stricken to avoid unnecessary confusion and 14 prejudice. ECF No. 200 at 19-20; see also *Ollier v. Sweetwater Union H.S. Dist.*, 735 F.

15 Supp. 2d 1222, 1224 (S.D. Cal. 2010) (“Matters may be stricken to reduce trial 16 complication or if challenged allegations are so unrelated to plaintiff’s claims to be 17 unworthy of consideration as a defense and their presence in the pleading will prejudice 18 the party seeking to strike matters.”). The magistrate judge was not required by precedent, 19 as Plaintiffs argue, to inquire only whether “the matter to be stricken could have no possible 20 bearing on the subject matter of the litigation.” The legal standard applied in the Report 21 was not clearly erroneous or contrary to Ninth Circuit law, and the Court overrules 22 Plaintiffs’ objection. 23 B. The U.S. Magistrate Judge Did Not Improperly Limit Discovery 24 Plaintiffs

next argue that the Report goes beyond the scope of Rule 12(f) by 25 improperly limiting the scope of discovery. ECF No. 201 at 10. Plaintiffs state, “[t]his Rule 26 12(f) motion is not the occasion for deciding discovery issues.” Id. 27 While the Report appropriately considers the extent to which the allegations at issue 28 may bear on future discovery, the Report does not purport to, and does not, constitute a 1 ruling on the limits of discovery under Rule 26. The analysis contained in the Report 1s not 2 || determinative of any future discovery dispute that may come before the Court. The Court 3 || overrules Plaintiffs’ objection.

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5 Plaintiffs opine that the Report’s granting of the motion to strike has “little practical 6 || significance.” ECF No. 201 at 1, 10. The Court does not construe Plaintiffs’ filing as raising 7 || objections beyond the two addressed above. Having overruled those objections, the Court 8 adopts grants the Motion and adopts the Report for the reasons stated therein as well as set 9 || forth above.

#### 10 CONCLUSION

11 The Court’s ADOPTS Judge Goddard’s Report and Recommendation [ECF No. 12 and GRANTS Defendants’ Motion to Strike [ECF No. 168]. 13 IT IS SO ORDERED. fekue 7 ¢ Lowe 14 || Dated: September 12, 2025 15 Hon. Robert S. Huie United States District Judge 16 17 18 19 20 21 22 23 24 25 26 27 28