2d Civil No. B194373

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

BOSS PERRYMAN, et al.,

Plaintiffs and Appellants,

vs.

COUNTY OF LOS ANGELES, et al.,

Defendants and Respondents.

Appeal from the Superior Court of Los Angeles County
Superior Court Case No. BC 351404
Honorable Elizabeth A. Grimes, Judge

RESPONDENT'S BRIEF

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Court of Appeal
State of California
Second Appellate District

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Court of Appeal Case Number: B194373

Case Name: Perryman, et al. v. County of Los Angeles, et al.

Please check the applicable box:

[X] There are no interested entities or parties to list in this Certificate per California Rules of Court, Rule 8.208.

[ ] Interested entities or parties are listed below:

Name of Interested Entity or Person	Nature of Interest

Please attach additional sheets with Entity or Person Information if necessary.

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INTRODUCTION

Plaintiffs appeal from an order dismissing their action against the County of Los Angeles, following the sustaining of the County's demurrer to the first amended complaint. The trial court found – and properly so – that neither the County nor its coroner is under a duty to preserve a dead body in its custody in a condition that is subjectively amenable to public viewing.

Plaintiffs contend that the County owed a mandatory duty to preserve the body; but they fail to identify any statute that so mandates. Plaintiffs contend the duty may be found in the periphery of Health and Safety Code sections 7100 and 7104.1, which statutes identify who is responsible to dispose of a dead body and give the coroner authority to inter the body and recover the costs of interment from the responsible party, respectively; but they have not explained how the right to dispose of the body necessarily includes the right to a well-preserved body of which to dispose.

Plaintiffs also contend that the County may be held vicariously liable for the acts of its employees, including those in the coroner's office; but plaintiffs have not demonstrated that the coroner or any County employees owed a duty to them to preserve the remains of their decedent in any particular condition.

Finally, plaintiffs contend that, although they did not ask for leave to amend, they should be permitted to amend the complaint a second time because the complaint supports a claim for violation of civil rights against the County. Actually, it does not, because it fails to allege facts that would support a finding that the County had an official policy or widespread custom that resulted in violating plaintiffs' civil rights. Moreover, plaintiffs have not identified any facts that *could* be alleged to state a claim for

violation of their civil rights by the County. Accordingly, the trial court order sustaining the demurrer without leave to amend should be affirmed.

STATEMENT OF THE CASE AND RELEVANT FACTS

Decedent Eugene Perryman died on August 3, 2005, at Los Angeles County/USC Medical Center after suffering a gunshot wound on June 25, 2005. Plaintiffs – the decedent's surviving wife, children and siblings – did not pick up the body until August 11, by which time, plaintiffs contend, the body was decomposed and "unrecognizable." (Clerk's Transcript ["CT"] 8.) Their complaint, filed April 26, 2006 (CT 4), alleged generally that the County of Los Angeles ("the County") was negligent in failing "to store, refrigerate, preserve, or otherwise properly care for" the body (CT 10), in violation of "mandatory duties under Health and Safety Code §§ 7100 *et seq.*" (CT 8). The complaint further alleged that the County was vicariously liable for the acts of its employees under Government Code sections 815.2 and 820. (CT 10.) A second cause of action alleged that the County failed to adequately train or supervise, discipline or in any way control its employees in handling dead bodies. (CT 11.)

The County demurred to the complaint on the ground that it failed to allege a statutory duty on the part of the County to "ensure that the remains of plaintiffs' decedent would be in a condition subjectively amenable to a public viewing and open casket" (CT 30) or to train its employees to do so (CT 32-33). The trial court sustained the demurrer with 20 days leave to amend on July 13. (CT 66-67.)

Plaintiffs' first amended complaint, filed on July 31, 2006 (CT 69), was not significantly different from the original and so the County demurred again (CT 80, 83). This time the demurrer was sustained without leave to amend and the action dismissed on September 28, 2006. (CT 127-

128.) Notice of entry of the judgment of dismissal was sent on October 3, 2006. (CT 130, 136.) Plaintiffs' timely notice of appeal was filed on October 6, 2006. (CT 137.)

LEGAL DISCUSSION

I.

THE TRIAL COURT PROPERLY CONCLUDED THAT THE COUNTY DOES NOT HAVE A STATUTORY DUTY TO PRESERVE A DECEDENT'S REMAINS IN ANY PARTICULAR CONDITION FOR THE FAMILY.

Government Code section 815 requires that government tort liability be based on a statute. (*Washington v. County of Contra Costa* (1995) 38 Cal.App.4th 890, 895-896.) Contrary to plaintiffs' contention that a governmental duty "need not be expressly defined" (AOB 9), a party wishing to sue a public entity – such as the County – must specifically identify the statute that purportedly gives rise to liability. (*Washington*, *supra*, at pp. 896-897; *Brenneman v. State of California* (1989) 208 Cal.App.3d 812, 817.)

Plaintiffs contend the County had a mandatory duty to "properly preserve" the decedent's remains pursuant to Health and Safety Code sections 7100 and 7104.1. (AOB 10.) Alternatively, plaintiffs assert that the County is vicariously liable, under Government Code sections 815.2 and 820, for the actions of its employees in the coroner's office in negligently handling the decedent's remains. (AOB 16.)

As we now explain, neither assertion will support a cause of action against the County. Accordingly, the trial court properly sustained the demurrer without leave to amend.

A. Plaintiffs Have Not Identified A Statute Imposing A Mandatory Duty On The Coroner's Office To Preserve A Dead Body In A Particular Condition.

Government Code section 815.6 provides that a public entity is liable for injury caused by its failure to discharge a mandatory duty imposed by statute and designed to protect against the risk of that injury. A plaintiff asserting a mandatory duty on the part of a public entity "'must specifically allege the applicable statute or regulation.'" (*Brenneman v. State of California*, *supra*, 208 Cal.App.3d at p. 817.) The duty imposed must be "*obligatory*, rather than merely discretionary or permissive," and "it must *require*, rather than merely authorize or permit, that a particular action be taken or not taken." (*Haggis v. City of Los Angeles* (2000) 22 Cal.4th 490, 498, emphasis in original.) Even if obligatory, the duty will not be considered a "mandatory duty" if it involves the exercise of discretion by the public entity or public employee. (*Ibid.*) Plaintiff must also show that the injury suffered was the kind of injury the statute was intended to prevent, and not just an incidental benefit of the legislation. (*Id.* at p. 499.)

Plaintiffs assert that the County, through its coroner's office, had a mandatory duty to "handle, preserve, refrigerate, and/or otherwise care for" (AOB 14) the decedent's remains until plaintiffs picked them up (AOB 10). They admit *no* statute specifically imposes such a duty on the County, calling the issue one of "first impression" (AOB 9, 15), but contend that the duty may be found in the subtext of Health and Safety Code sections 7100 and 7104.1. Specifically, plaintiffs contend that the coroner's alleged duty to "properly house, store, refrigerate and/or otherwise care for the remains" in his custody (AOB 15) is a correlative duty to the duties imposed by sections 7100 and 7104.1.

Section 7100 identifies the person or persons who have the responsibility "to control the disposition of the remains of a deceased person, [including] the location and conditions of interment, and arrangements for funeral goods and services to be provided." (Health & Saf. Code, § 7100, subd. (a).) The person who has the duty to inter the body also has the right to possess the body for such purpose. (Health & Saf. Code, § 7102.) The primary purpose of this statute is to protect the County's treasury by imposing financial responsibility for disposal of dead bodies on someone other than the government. (*Spates v. Dameron Hosp. Assn.* (2003) 114 Cal.App.4th 208, 219.) Indeed, the coroner is permitted, by statute, to inter the body and to recover the cost of interment from the responsible party named in section 7100 if that person fails or refuses to take possession of the body for disposal. (Health & Saf. Code, § 7104.1.)

Plaintiffs contend the statutes also "exist to protect a family member's rights to control the disposition of the remains of their loved one" (AOB 15), by which they mean there is a correlative duty on the part of "others" to "refrain" from disturbing the body (AOB 11-12). Plaintiffs contend that the family's right to control "disposition" of the remains originates "'in sentiment, in affection for the dead, [and] in religious belief'" (AOB 11) and, therefore, includes the family's right to well-preserved remains.

However, by statute, the responsibility for disposal of the body and the associated right to control the disposition devolves first upon the "agent under a power of attorney for health care" for the decedent, who may or may not be a relative. (*Id.*, subd. (a)(1).) As aptly noted by Justice Fernandez in his dissenting opinion in *Newman v. Sathyavaglswaran* (2002) 287 F.3d 786, 800, "Is not it interesting that the holder of a power of attorney comes before the closest relatives . . . ?" It seems odd to say that

the *family* has a right to well-preserved remains if someone else may very well have the statutory right *and duty* to dispose of the remains.

Moreover, plaintiffs' contention that the family has the primary right to protect the dead body is inconsistent with the statutes that give the coroner substantial rights to custody and control of the remains that supersede any familial rights. For example, section 7102 permits the *coroner* to possess the body for purposes of investigating the cause of death, "until the conclusion of the autopsy or medical investigation," *and* requires any person with possession of the remains to surrender them to the coroner upon demand. (Health & Saf. Code, § 7102.) The coroner is required to investigate any number of suspicious deaths, but it is within his discretion to determine the extent of the inquiry and may even exhume the body for investigation. (Gov. Code, § 27491.) The coroner is entitled to examine the body at the scene of death and to determine whether to take custody of it or turn it over to the next of kin. (Gov. Code, § 27491.2, subd. (a).) When a coroner's inquiry is required, no one – not even family members – is permitted to disturb or remove the body from the place of death without the coroner's permission. (*Id.*, subd. (b).) If it appears that the death may be related to or the result of a crime, custody and control of the body "shall remain with the coroner at all times." (Gov. Code, § 27491.3, subd. (c).) The coroner also has "the right to retain parts of the body . . . removed at the time of autopsy . . . as may, in the opinion of the coroner, be necessary or advisable for scientific investigation and training." (Gov. Code, § 27491.45, subd. (a)(1).) Clearly, then, if the coroner has all of these rights, the same rights cannot be held by the family; and read together with Health and Safety Code section 7100, it should be plain that the right to possess the body for disposal does *not* include the right to decide in what condition the body should be delivered for disposition.

Plaintiffs' reliance on *Davila v. County of Los Angeles* (1996) 50 Cal.App.4th 137 (AOB 12-13) is misplaced. There, the coroner's office cremated the decedent's body without first attempting to notify the family. The court of appeal found "the existence of a mandatory duty is established by *Government Code section 27471*, subdivision (a)," which requires the coroner to "'make a reasonable attempt to locate decedent's family.'" (50 Cal.App.4th at p. 140, emphasis added.) The court found this duty "reflected" in Health and Safety Code, sections 7104 and 7104.1 because each makes reference to "reasonable diligence" and "diligent attempts to notify" the family, respectively. (*Ibid*.) *Davila* does not hold, as plaintiffs characterize it, that the County had a duty "to properly handle a decedent's remains." (AOB 12.) Rather, the court noted that the "right to control the disposition" of the body vested in the family, meaning that the family is entitled to decide whether to bury or cremate, if the family can be found using reasonable diligence. (50 Cal.App.4th at p. 142.)

The instant case is inapposite. Plaintiffs do not complain that the County failed to make reasonable attempts to locate them, or that the County improperly disposed of the body. Rather, they fault the County for failing to take affirmative steps to preserve the body in an aesthetically pleasing condition. Nothing in *Davila* supports this proposition.

Plaintiffs also erroneously rely on *Quesada v. Oak Hill Improvement Co.* (1989) 213 Cal.App.3d 596. (AOB 13.) In that case, the County of Santa Clara delivered the wrong body to the funeral home for burial. Moreover, when the error was pointed out to them, they denied that it was the wrong body. Days after the burial of the other body, the county admitted the mix-up and the mortuary exhumed the other body and buried the correct one. (213 Cal.App.3d at p. 600.) In holding that the plaintiffs had stated a claim for negligent mishandling of a corpse, the court noted that "the body itself suffers no legally cognizable damage by virtue of a

defendant's claimed negligence." (*Id*. at p. 603) In holding that the defendants owed a duty to the plaintiffs, the court found it was reasonably foreseeable that the family would be distressed "about the loss or misplacement of the deceased's body, the failure to provide religious or spiritual rites to the deceased, and improper interment of another." (*Id*. at p. 605.) The case must be read in the context of its facts – i.e., where the entire body is "misplaced" or destroyed. (See *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142, 1157 ["the language of an opinion must be construed with reference to the facts presented by the case, and the positive authority of a decision is coextensive only with such facts"].) Neither happened here.

Given the coroner's right to custody and control of dead bodies under the statutes, it should be quite clear that possession of the body pursuant to section 7100 is limited to possession for final disposal only, and does not include the right to remains in a particular, physical condition. For these reasons, the trial court properly sustained the County's demurrer to the first amended complaint on this ground.[1]

B. There Is No Common Law Duty On The Part Of The Coroner's Office To Preserve A Dead Body In A Condition Subjectively Amenable To Public Viewing.

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[1] Because plaintiffs have not identified a specific statute expressly imposing a duty on the County to preserve the body, they have not even tried to establish that the duty is "*obligatory*, rather than merely discretionary or permissive," or that it does not involve the exercise of discretion, both of which are required to establish breach of a mandatory duty. (*Haggis v. City of Los Angeles, supra*, 22 Cal.4th at p. 498, emphasis in original.) For this reason, also, the trial court's order should be affirmed.

Plaintiffs contend that, even if there is no statutory duty imposed on the County, the County may be held vicariously liable for the conduct of its employees in the coroner's office under Government Code sections 815.2 and 820. (AOB 16.)

Section 820, subdivision (a), provides that "a public employee is liable for injury caused by his act or omission to the same extent as a private person," unless his conduct is immunized. Section 815.2 provides that a public entity is vicariously liable for injuries caused by employees acting within the scope of their employment, unless a statute immunizes either the employee or the entity or both. (*Torsiello v. Oakland Unified School Dist*. (1987) 197 Cal.App.3d 41, 45 [the extent of an entity's vicarious liability will be determined by the scope of the duty legally attributable to its employees].)

In this case, plaintiffs contend the County's employees in the coroner's office were negligent in failing to take steps to preserve the decedent's body. To succeed on this claim, plaintiffs must first show that someone in the coroner's office owed them a duty which was breached. This is a question of law for the court and, therefore, properly addressed by demurrer or on appeal. (*Christensen v. Superior Court* (1991) 54 Cal.3d 868, 884-885 [negligent mishandling of human remains is simple negligence, and existence of duty is question of law for the court].)

As explained above, a public employee is liable for his torts "to the same extent as a private person." (Gov. Code, § 820, subd. (a).) In asserting that County employees in the coroner's office were negligent, plaintiffs have not even attempted to explain how a private person in the coroner's position – such as a private medical examiner, or perhaps a mortuary or funeral home – would have a common law duty to preserve the body in a particular condition. The duties of such private entities arise by contract, not common law. For example, in *Christensen v. Superior Court*,

supra, 54 Cal.3d at p. 886, the Supreme Court found that, by signing a contract with one member of the deceased's family, the mortuary defendants undertook a duty to *all* family members to provide "appropriate and dignified services of the type that bereaved family members normally anticipate," including "arranging the commitment of the remains through burial or encryptment, or alternatively cremation. . . ." That duty was breached when the defendants commingled ashes of several bodies and sold body parts and organs to a biological supply company without permission of the families. (*Christensen v. Superior Court*, *supra*, 54 Cal.3d at pp. 878-879.)

Nothing similar happened here: There was no contract, no cremation, no improper harvesting of organs. And plaintiffs have not identified a *common law* duty in *Christensen* to preserve a body in a subjectively agreeable condition.

Sabow v. United States (9th Cir. 1996) 93 F.3d 1445 is instructive. In that case, a U.S. Navy colonel (Sabow) was found shot to death and several investigations ensued. The complaint against the Navy, filed by Sabow's surviving widow and other relatives, alleged that the investigations were "unprofessional, ineffective, and blindly insensitive to the concerns of the Sabow family" (93 F.3d at p. 1449; CT 53) in that, among other things, evidence was moved and lost and Colonel Sabow's body "was left in the sun for more than seven hours" (93 F.3d at p. 1449; CT 54). The Ninth Circuit affirmed the dismissal of plaintiffs' claim for negligent handling of human remains, finding no duty of care owed by the military under California law. (93 F.3d at p. 1458; CT 62-63.) The court distinguished *Christensen*, *supra*, explaining: "Not only is the handling of an individual's remains during an investigation into his death different from mortuary services, but, unlike the defendants in *Christensen*, the U.S. Navy was

under no contractual obligation to treat decedent's remains in a certain manner . . . ." (93 F.3d at p. 1458; CT 63.)

Plaintiffs argue briefly that, unless a duty is imposed as suggested here, the coroner's office will take no steps to preserve bodies in its possession. (AOB 15-16.) This is pure conjecture, particularly since the enactment of section 7100 "is based on considerations of public health and sanitation, [as well as] the interest of the state in avoiding the expense and involvement of supervising the burying of abandoned dead." (*Wilson v. Houston Funeral Home* (1996) 42 Cal.App.4th 1124, 1140.)

Plaintiffs' argument with respect to vicarious liability fails for yet another reason. Plaintiffs have not demonstrated that the County would not be immune from liability. As noted above, a public entity cannot be held vicariously liable for an employee's conduct if a statute immunizes either the employee or the entity. (Gov. Code, § 815.2, subd. (b).) Government Code section 820.2 immunizes a public employee for injuries resulting from discretionary decisions, and, as explained above, the statutes impose significant discretion on the coroner's office.

In short, plaintiffs have not demonstrated any basis for holding the County vicariously liable for the acts of its employees under Government Code section 815.2 under the facts of this case.

II.

THE TRIAL COURT PROPERLY DENIED PLAINTIFFS LEAVE TO AMEND, AND PLAINTIFFS HAVE NOT SHOWN *FACTS* THAT COULD BE ALLEGED TO STATE A CLAIM FOR VIOLATION OF CIVIL RIGHTS AGAINST THE COUNTY.

Plaintiffs contend that, although they never asked for leave to amend their complaint a second time in the trial court, this court should, at a minimum, grant them leave to amend the complaint to include a claim for violation of federal civil rights under 42 U.S.C. section 1983. (AOB 7-8, 17.) Plaintiffs contend that the "requisite showing can be made for the first time on appeal." (AOB 7.) What plaintiffs have not done, however, is make the "requisite showing" on appeal.

Section 1983 provides that any person who, under color of state law, deprives another person of any rights, privileges, or immunities secured by the U.S. Constitution shall be civilly liable to the injured person. (42 U.S.C. § 1983.) Section 1983 does not give rise to any substantive rights itself; rather, it describes a remedy for violation of constitutionally protected rights enunciated elsewhere. (*Chapman v. Houston Welfare Rights Org.* (1979) 441 U.S. 600, 617-618 [60 L.Ed.2d 508, 99 S.Ct. 1905]; *Baker v. McCollan* (1979) 443 U.S. 137, 144, fn. 3 [61 L.Ed.2d 433, 99 S.Ct. 2689].)

As a threshold matter, plaintiffs must allege facts that show: (1) a deprivation (2) of constitutionally protected property (3) under color of state law. (*Newman v. Sathyavaglswaran*, *supra*, 287 F.3d at p. 789.) However, a public entity, like the County, cannot be held vicariously liable for a violation of civil rights by its employees. (*Monell v. Dept. of Soc. Serv. of City of N. Y.* (1978) 436 U.S. 658, 690-691 [56 L.Ed.2d 611, 98 S.Ct.

2018].) A public entity may be held liable under section 1983 only for its own official policies or widespread customs that violate a person's civil rights. (*Ibid*.)

To establish the existence of an official policy, plaintiffs must demonstrate a *deliberate* choice was made by an official responsible for establishing policy to follow a particular course of action. (*City of St. Louis v. Praprotnik* (1988) 485 U.S. 112, 123 [99 L.Ed.2d 107, 108 S.Ct. 915]; *Gobel v. Maricopa County* (9th Cir. 1989) 867 F.2d 1201, 1206-1207.) A custom or practice, which is defined as persistent, widespread, permanent and well-settled, necessarily arises from a repetition of acts. (*Knight v. Carlson* (E.D. Cal. 1979) 478 F.Supp. 55, 58-59; *McConney v. City of Houston* (5th Cir. 1989) 863 F.2d 1180, 1184.)

Plaintiffs contend that they may maintain a cause of action for violation of civil rights against the County, but they have not even mentioned *Monell*, *supra*, or the rule set forth in that case, let alone made any attempt to identify what *facts* they have or could allege to support such a claim. (AOB 18.) It is not enough merely to allege that the County had a "policy or custom" that resulted in injury to plaintiffs because that is a legal conclusion and not presumed to be true for purposes of a demurrer (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318), but plaintiffs haven't even done that much. Plaintiffs need to allege facts to support their claim, and they have not demonstrated that they can do so.

Plaintiffs cite *Newman v. Sathyavaglswaran*, *supra*, 287 F.3d 786, a Ninth Circuit opinion involving parents' rights to control disposition of their dead children's corneas. (AOB 18-21.) The case involved a statute specifically permitting the coroner to remove corneas from a dead body if he "has no knowledge of objection to the removal." (Gov. Code, § 27491.47, subd. (a)(2).) The court ultimately concluded that the coroner's lack of knowledge of objection must be preceded by a reasonable attempt to

contact and notify the family. (*Newman v. Sathyavaglswaran*, *supra*, 287 F.3d at p. 788.)

Plaintiffs contend the instant case is analogous to *Newman* (AOB 21), but they never really explain *how*: *Newman* involved the deliberate removal of corneas from dead bodies without family members' permission. (*Newman v. Sathyavaglswaran*, *supra*, 287 F.3d at p. 788.) Although the court looked at the right to possess the body for purposes of burial, the court's conclusion was heavily based on the fact that the right to make an anatomical gift of one's body parts belongs to oneself, and that that right passes to one's next of kin after death. (*Id*. at p. 795, fn. 10.) Even if *Newman* could be read to establish a constitutional "right" to demand a perfectly preserved body, plaintiffs' claim would still fail because they have not alleged that any violation of that right was the result of an official policy or well-settled and widespread custom of the County.[2]

Plaintiffs' reliance on *O'Donnell v. Slack* (1899) 123 Cal. 285 (AOB 10-11) is also misplaced.[3] Not only does the case *not* support plaintiffs' position, it fully supports the defense position. The dispute in *O'Donnell* was over where to bury the decedent and who would get money

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[2] Plaintiffs may argue that it is desirable to have the County take *some* steps to preserve dead bodies for their families; but that desire alone cannot turn the failure to preserve a body in a particular condition into a violation of constitutional dimensions. (See, e.g., *Newman v. Sathyavaglswaran*, *supra*, 287 F.3d at p. 801 (dis. opn. of Fernandez, J.) ["Nobody who has had the misfortune of having his loved ones die can fail to be moved by the prospect that somebody else will treat the loved one's former earthly vessel with disrespect. That feeling does not, however, demonstrate that California has conferred a constitutionally protected property right upon family members"].)

[3] Plaintiffs purport to rely on *O'Donnell* as a basis for finding a *statutory* duty by the County; but plaintiffs' discussion of the case makes it clear that they are relying on an *implied* duty, which would be judicial or common law, not statutory.

from the estate to do so. In an opinion that predated the enactment of Health and Safety Code section 7100, the court noted that, although the duty of "disposing of the body" belongs to the next of kin, the body "unquestionably forms *no part of the property* of that estate." (*O'Donnell v. Slack*, *supra*, 123 Cal. at pp. 288, 289 (emphasis added).)

Furthermore, in stating that the right to possess the body includes the right to protect the remains "*by separate burial*," the court in *O'Donnell* explained that that meant the right "to select the place of sepulture and to change it at pleasure" (*ibid.*, emphasis added) – nothing more. Nothing in *O'Donnell* supports finding a right to a *preserved* body as part of the right of possession for disposal of that body.

Finally, it is plaintiffs' burden to demonstrate how the complaint could be amended to defeat a demurrer – i.e., what facts could be alleged to support a cause of action against the defendant. (*Blank v. Kirwan*, *supra*, 39 Cal.3d at p. 318.) Since plaintiffs have not met that burden, the trial court's order sustaining the demurrer without leave to amend should be affirmed.

CONCLUSION

The trial court correctly sustained the County's demurrer without leave to amend. Plaintiffs have not shown any basis for reversing any part of that decision on appeal. Accordingly, the judgment in favor of the County should be affirmed.

Dated: April 16, 2009

Respectfully submitted,

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County of Los Angeles

CERTIFICATION

Pursuant to California Rules of Court, Rule 8.204(c)(1), I certify that this **Respondent's Brief** contains 4,467 words, not including the Certificate of Interested Entities or Persons, tables of contents and authorities, caption page, signature blocks, or this Certification page.

Dated: March 27, 2007

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