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COUNTY OF LOS ANGELES
8 DEPARTMENT OF PUBLIC HEALTH,
MUNTU DAVIS, M.D., and BARBARA
9 FERRER, PhD

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 IN AND FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

12 ALLIANCE OF LOS ANGELES
13 COUNTY PARENTS, an unincorporated
14 association,

15 Petitioner and Plaintiff,

16 v.

17 COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC HEALTH;
18 MUNTU DAVIS, in his official capacity
as Health Officer for the County of Los
19 Angeles; BARBARA FERRER, in her
official capacity as Director of the County
20 of Los Angeles Department of Public
Health; and DOES 1 through 25, inclusive,

21 Respondents and Defendants.
22

Case No. 22STCP02772

Assigned for All Purposes to:
Hon. James C. Chalfant, Dept. 85

- 23 (1) **DEFENDANTS COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH'S, MUNTU DAVIS, M.D.'S, AND BARBARA FERRER, PHD'S NOTICE OF MOTION AND MOTION TO STRIKE PLAINTIFF'S FIRST AMENDED PETITION:**
- 24 (2) **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF:**
- 25 (3) **DECLARATION OF VALERIE E. ALTER IN SUPPORT THEREOF**

26 Hearing Date: December 15, 2022
27 Time: 9:30 a.m.
28 Dep't: 85

Complaint Filed: July 26, 2022
Trial Date: Not Set

1 **TO THE ABOVE-CAPTIONED COURT AND TO PLAINTIFFS AND THEIR**
2 **ATTORNEYS OF RECORD:**

3 Please take notice that on December 15, 2022, at 9:30 a.m., or as soon thereafter as
4 this matter can be heard in Department 85 of the above-captioned Court, located at 111
5 North Hill Street, Los Angeles, CA 90012, Respondents and Defendants Los Angeles
6 County Department of Public Health, Muntu Davis, M.D., in his official capacity as Health
7 Officer for the County of Los Angeles, and Barbara Ferrer, PhD, in her official capacity as
8 Director of the County of Los Angeles Department of Public Health (collectively
9 “LACDPH”) will and hereby do move to strike the entire *First Amended Petition* (“FAP”)
10 filed on September 30, 2022, by Plaintiff Alliance of Los Angeles County Parents, pursuant
11 to CALIFORNIA CODE OF CIVIL PROCEDURE § 435(b)(1).

12 This motion is made on the ground that the *FAP* is not verified as required by
13 CALIFORNIA CODE OF CIVIL PROCEDURE § 1086, and CALIFORNIA RULE OF COURT
14 2.257(b)(1).

15 This Motion is based on this notice, the attached memorandum of points and
16 authorities, the attached *Declaration of Valerie E. Alter* in compliance with CODE OF CIVIL
17 PROCEDURE § 435.5, and all other pleadings, records, and papers on file, deemed to be on
18 file, or of which this Court may or must take judicial notice at the time this motion to strike
19 is heard, and upon such further evidence and arguments as may be presented at or before the
20 time of the hearing of this motion to strike.

21
22 Dated: October 31, 2022

SHEPPARD MULLIN RICHTER & HAMPTON LLP

23
24 By


KENT R. RAYGOR

25
26 Attorneys for Respondents and Defendants
27 COUNTY OF LOS ANGELES DEPARTMENT
28 OF PUBLIC HEALTH, MUNTU DAVIS, M.D.,
and BARBARA FERRER, PhD

1 Respondents and Defendants Los Angeles County Department of Public Health,
2 Muntu Davis, M.D., and Barbara Ferrer, PhD’s (collectively “LACDPH”) hereby move to
3 strike the *First Amended Petition* (“*FAP*”) filed on September 30, 2022, by Petitioner and
4 Plaintiff Alliance of Los Angeles County Parents. As explained in more detail below, the
5 motion should be granted because Petitioner/Plaintiff failed to verify the *FAP*.

6 I.

7 **PLAINTIFF/PETITIONER’S *FAP* SHOULD BE STRICKEN FOR INVALID**
8 **VERIFICATION**

9 A. **The Standard Applicable To Motions To Strike.**

10 CAL. CIV. PROC. CODE § 436(b) states that, upon a motion made pursuant to CAL.
11 CIV. PROC. CODE § 435, the court may “[s]trike out all or any part of any pleading not drawn
12 or filed in conformity with the laws of this state, a court rule, or an order of the court.”

13 B. **Plaintiff’s *FAP* Should Be Stricken In Its Entirety Because It Is Unverified.**

14 A writ of mandate may not issue unless the petition is verified. CAL. CIV. PROC
15 CODE § 1086. “Sections 1086 and 1089, contained in title 1, and supplemented by
16 California Rules of Court, rules 56(a) and 56(c), *require verification in mandate*
17 *proceedings without exception*” *People v. Superior Court (Alvarado)* (1989) 207 Cal.
18 App. 3d 464, 470. “The proper objection where a party fails to verify a pleading is a motion
19 to strike.” *Perlman v. Municipal Court* (1979) 99 Cal. App. 3d 568.

20 Plaintiff’s *FAP* seeks a writ of mandate enjoining certain LACDPH orders related to
21 masking to prevent the spread of COVID-19, and prohibiting LACDPH from issuing future
22 masking orders. [*FAP*, Prayer for Relief, ¶¶ 1-3.] Plaintiff’s *FAP* purportedly is verified by
23 Margaret Orenstein, who identifies herself as Petitioner/Plaintiff’s Founding Member.
24 [*FAP*, Verification.] The Verification does not have a physical signature, and only states
25 “/s/” on the signature line. [*Id.*]. This is insufficient.

26 Under CAL. RULE OF COURT 2.257(b)(1), for an electronic signature to be valid, the
27 document must be filed by the declarant, or “[i]f the declarant is not the electronic filer, the
28 electronic signature must be unique to the declarant, capable of verification, under the sole

1 control of the declarant, and linked to data in such a manner that if the data are changed, the
2 electronic signature is invalidated[.]” The *FAP* was filed by Petitioner/Plaintiff’s counsel,
3 not the purported declarant, Margaret Orenstein. The “/s/” stated on the Verification also
4 does not meet the requirements of uniqueness, control or data linkage in such a manner as to
5 invalidate the signature if the data is changed. Thus, Petitioner/Plaintiff’s electronic
6 signature does not meet the requirements of Rule 2.257(b)(1), and is not a valid verification.

7 **II.**

8 **CONCLUSION**

9 For all of the foregoing reasons, the LACDPH respectfully requests that the motion
10 be granted.

11 Dated: October 31, 2022 SHEPPARD MULLIN RICHTER & HAMPTON LLP

12
13 By 
14 _____
15 KENT R. RAYGOR

16 Attorneys for Respondents and Defendants
17 COUNTY OF LOS ANGELES DEPARTMENT
18 OF PUBLIC HEALTH, MUNTU DAVIS, M.D.,
19 and BARBARA FERRER. PhD
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DECLARATION OF VALERIE E. ALTER

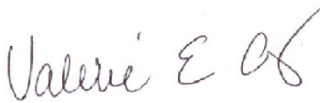
I, Valerie E. Alter, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am special counsel to Sheppard Mullin Richter & Hampton LLP, attorneys of record for Defendants County of Los Angeles Department of Public Health, Muntu Davis, M.D., in his official capacity as Health Officer for the County of Los Angeles, and Barbara Ferrer, PhD, in her official capacity as Director of the County of Los Angeles Department of Public Health (collectively “LACDPH”) in this proceeding. If called as a witness, I could and would competently testify to all facts within my personal knowledge except where stated upon information and belief.

2. On Monday, October 24, 2022, I met and conferred via telephone with Julie Hamill, counsel for Plaintiff in this matter, about the basis for this Motion. The parties were unable to reach agreement regarding verification for the *First Amended Petition* or the grounds to be asserted by LACDPH in this motion concerning that verification.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed October 31, 2022, at Los Angeles, California.



Valerie E. Alter

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PROOF OF SERVICE

Alliance of Los Angeles County v. County of Los Angeles Department of Public Health, et al.
Case No. 22STCP02772

STATE OF CALIFORNIA, COUNTY OF ORANGE

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Orange, State of California. My business address is 650 Town Center Drive, 10th Floor, Costa Mesa, CA 92626-1993.

On October 31, 2022, I served true copies of the following document(s) described as

- 1. **DEFENDANTS COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH'S, MUNTU DAVIS, M.D.'S, AND BARBARA FERRER, PHD'S NOTICE OF MOTION AND MOTION TO STRIKE PLAINTIFF'S FIRST AMENDED PETITION:**
- 2. **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF:**
- 3. **DECLARATION OF VALERIE E. ALTER IN SUPPORT THEREOF**

on the interested parties in this action as follows:

Julie A. Hamill
Hamill Law & Consulting
904 Silver Spur Road, #287
Rolling Hills Estates, California, 90274
Email: julie@juliehamill-law.com

Attorney for Petitioner and Plaintiff
ALLIANCE OF LOS ANGELES COUNTY
PARENTS

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred.

BY ELECTRONIC SERVICE: I served the document(s) on the person listed in the Service List by submitting an electronic version of the document(s) to One Legal, LLC, through the user interface at www.onelegal.com.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 31, 2022, at Costa Mesa, California.

/s/ Christina Lopez
Christina Lopez