

****E-filed 12/12/11****

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ESPANOLA JACKSON, et al.,

No. C 09-2143 RS

Plaintiffs,

**ORDER DENYING MOTION TO
STRIKE**

v.

CITY AND COUNTY OF SAN
FRANCISCO, et al.,

Defendants.

_____/

Pursuant to Civil Local Rule 7-1(b), plaintiffs’ motion to strike defendants’ “affirmative defenses” related to standing and ripeness is suitable for disposition without oral argument, and the hearing set for December 15, 2011 is vacated. As defendants correctly concede, the issues of standing and ripeness do not properly constitute affirmative defenses. Nevertheless, as defendants also point out, it remains plaintiffs’ burden to establish the facts they alleged on which the Court relied when it denied defendants’ motion to dismiss. While the allegations in defendants’ answer are therefore surplusage, it would serve no salutary purpose to strike them.

Because motions to strike that would have no substantive or practical effect if granted are disfavored, the motion is denied. This ruling, however, is not an endorsement of the propriety of any particular discovery requests defendants may have propounded, or may intend to propound, regarding standing or ripeness issues. As plaintiffs have observed, the Court’s ruling on standing

1 and ripeness turned on a relatively narrow set of facts, which are unlikely to be in substantial
2 controversy. Any disputes as to the relevance, burden, and/or proportionality of particular discovery
3 requests will be evaluated if and when presented.

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5 IT IS SO ORDERED.

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7 Dated: 12/12/11


RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE

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