

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
NORTH JUSTICE CENTER

MINUTE ORDER

DATE: 01/14/2025

TIME: 02:48:00 PM

DEPT: N17

JUDICIAL OFFICER PRESIDING: Craig Griffin

CLERK: L. Silva

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT:

CASE NO: **30-2024-01436138-CU-NP-NJC** CASE INIT.DATE: 10/28/2024

CASE TITLE: **Collings vs. Pace Recovery Center, LLC**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Non-PI/PD/WD tort - Other

EVENT ID/DOCUMENT ID: 74468965

EVENT TYPE: Under Submission Ruling

APPEARANCES

There are no appearances by any party.

The Court, having taken the above-entitled matter under submission on 12/09/24 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

Court's tentative ruling shall remain as follows:

The Motion for Preliminary Injunction filed by Plaintiffs David M. Collings and Gigi N. Casteel-Tran, Trustees of the DG Family Trust is DENIED, without prejudice, as set forth herein.

Plaintiffs Objections to Evidence

Along with the Reply, plaintiffs submitted objections to the declarations of Leonard Segal and Michael Kushner.

Plaintiffs' Objection Nos. 1-4 to the declaration of Leonard Segal are OVERRULED.

Plaintiffs' Objection Nos. 1-3 to the declaration of Michael Kushner are OVERRULED.

Merits of Motion

In this motion, Plaintiffs seek an order enjoining the defendants Pace Recovery Center, LLC ("Pace") and SDW Real Estate Holdings 3 LLC from operating a group home and/or sober living facility located at 221 11th Street, Huntington Beach, California 92648 without having received and complied with all mandatory licenses and permits (including but not limited to receiving and complying with a proper license from the State of California Department of Social Services or other required department and/or conditional use permit or special use permit required by the City of Huntington Beach).

“(a) A preliminary injunction may be granted at any time before judgment upon a verified complaint, or upon affidavits if the complaint in the one case, or the affidavits in the other, show satisfactorily that sufficient grounds exist therefor.” (Civ. Proc. Code § 527(a).)

“The general purpose of a preliminary injunction is to preserve the status quo pending a determination on the merits of the action.” (SB Liberty, LLC v. Isla Verde Assn., Inc. (2013) 217 Cal. App. 4th 272, 280.) “A superior court must evaluate two interrelated factors when ruling on a request for a preliminary injunction: (1) the likelihood that the plaintiff will prevail on the merits at trial and (2) the interim harm that the plaintiff would be likely to sustain if the injunction were denied as compared to the harm the defendant would be likely to suffer if the preliminary injunction were issued. [Citation.] Weighing these factors lies within the broad discretion of the superior court.” (Smith v. Adventist Health Sys./W. (2010) 182 Cal. App. 4th 729, 749.) However, a preliminary injunction “is proper only if there is a substantial basis to suppose that the defendant, if not restrained, will actually engage in the conduct sought to be enjoined.” (Epstein v. Superior Ct. (2011) 193 Cal.App.4th 1405, 1410 (emphasis in original).)

In support of the motion, plaintiffs rely on three Notices of Violation from the City of Huntington Beach are dated 9/25/24, 10/13/24 and 10/28/24 as well as the declaration of plaintiff David Collings who describes an incident that took place on 10/10/24. The plaintiffs filed their complaint on 10/28/24.

In opposition to the motion, the defendants submit evidence that “The Property is currently unoccupied, and has been since October 27, 2024.” (Segal Decl. ¶8) Defendants further submit evidence that “PACE and SDW will not be using the Property to run any adult treatment facility(-ies) until they have duly secured all required permits and licensing.” (Segal Decl. ¶9) Plaintiffs do not submit any evidence disputing these facts and there is insufficient evidence that the defendants have engaged in unlawful conduct since 10/27/24 and that such will occur in the future. While plaintiffs contend that the past acts of improperly using the property as a group home are likely to re-occur, these allegations are insufficient. (Mallon v. City of Long Beach (1958) 164 Cal. App. 2d 178, 190 – “Injunctive power is not used as punishment for past acts and is ordered against them only if there is evidence they will probably recur.”)

As the evidence submitted by the defendants shows that the conduct sought to be enjoined has ceased and that there is little to no risk of future unlawful conduct, and plaintiffs submit no evidence to dispute the defendant’s declarations, the Motion for Preliminary Injunction is DENIED, without prejudice.

Court orders Clerk to give notice.