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No. 29294-S

ABO V. CLARK

Sept. 1946

Motions to Strike

78/177

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1 Frank J. Hennessy,
2 United States Attorney,
3 Attorney for Defendants.
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Filed 9/19/46

10 IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12

13 TADAYASU ABO, et al., etc.,
14 Plaintiffs,

15 vs.

No. 25294-S

16 TOM CLARK, as Attorney General of
17 the United States; FRANK J. HENNESSY,
18 as United States Attorney for the
19 Northern District of California, and,
as such, the head of the United
States Department of Justice in said
District, et al., etc.,

20 Defendants.
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22 MOTION TO STRIKE

23 Defendants move to strike from the amended complaint
24 filed herein certain redundant, immaterial and impertinent matters
25 identified below, pursuant to Rules 8(e) and 12(f) of the Federal
26 Rules of Civil Procedure:

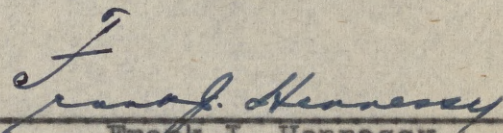
27 All of the matters and allegations set forth in Paragraph
28 VII of said amended complaint, beginning with line 30, page 17, to
29 and including line 10, page 19; on the ground that said allegations
30 and matters comprise evidentiary matters are impertinent, immaterial
31 and redundant; and, as a result of their inclusion in it, the
32 allegations of said amended complaint are not simple, concise, and

1 direct, as required by said Federal Rules.

2 That said matter constituted Exhibit No. 2, appended to
3 the "Supplement and Amendment to Complaint" filed herein and ordered
4 stricken by this Court on July 10, 1946.

5 For these reasons, said Paragraph VII, and the whole
6 thereof, of said amended complaint should be, and defendants move
7 that same be, stricken.

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9 Respectfully submitted,

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12 Frank J. Hennessy,
13 United States Attorney,
14 Attorney for Defendants.
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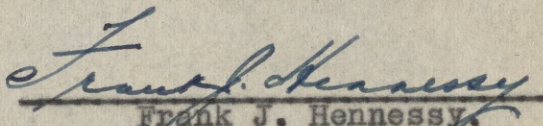
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MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF FOREGOING MOTION TO
STRIKE

Defendants refer to and hereby adopt the points and authorities in support of motion to strike, and memorandum supplemental to points and authorities in support of motion to strike filed by defendants in support of their motion to strike from the complaint and amendment and supplement thereto, which motion to strike was granted by the Court on July 10, 1946.

The order of the Court of July 10, 1946, granting the motion to strike, has become the law of the case and thus requires that the matter contained in said Paragraph VII of the amended complaint be stricken.

Respectfully submitted,


Frank J. Hennessy,
United States Attorney,
Attorney for Defendants.

1 WAYNE M. COLLINS,
2 1721 Mills Tower,
3 San Francisco, 4, California.
4 Garfield 1218.
5 Attorney for Plaintiffs and
6 Petitioners.

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U.S. DIST. COURT
SAN FRANCISCO

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9 IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 TADAYASU ABO, et all, etc.,)	No. 25294-S
12 Plaintiffs,)	
13 -vs-)	and
14 TOM CLARK, etc., et al.,)	Cons. Nos.
15 Defendants.)	25295-S
16)	25296-S
)	25297-S

17 MEMORANDUM OF POINTS AND AUTHORITIES
18 IN OPPOSITION TO MOTION TO STRIKE

19 Paragraphs VII on page 17 of the Amended Complaints Nos.
20 25294 and 25295 and paragraphs XII on page 17 of the Amended
21 Petitions Nos. 25296 and 25297 are pleaded to supply substantial
22 allegations of fact under the authority of Holly Sugar Corp. v.
23 Johnston, 18 Cal. 2d. 218, 225-226. See other citations, pages
24 8-10 of "Plaintiffs' Points and Authorities in Opposition to Defen-
25 dants' Motion To Strike" filed herein May 2, 1946.

26 In support of their opposition to said motion to strike the
27 plaintiffs and petitioners refer to and adopt herein their said
28 Points and Authorities and "Petitioners' Supplemental Memorandum
29 In Opposition To The Motion To Strike" filed herein on July 10,
30 1946.

31 Wherefore, plaintiffs and petitioners herein submit the
32 motions to strike said paragraphs from the amended complaints and

1 petitions should be denied.

2 Dated: September 20, 1946.

3 Respectfully submitted,

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Wayne M. Collins,
1721 Mills Tower,
San Francisco, 4, California.
Garfield 1218.

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Attorney for Plaintiffs and Petitioners.

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10 Receipt of a copy of the above Memorandum is hereby admitted
11 this 20th day of September, 1946.

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TOM CLARK, Attorney General,
FRANK J. HENNESSY, U.S. Attorney.

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BY: _____
Assistant U.S. Attorney.

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