

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Wayne v. Sierra County

Wayne · No. 2:25-cv-1113-DAD-CKD (PS) · Decided July 28, 2025

SUMMARY

The United States District Court for the Eastern District of California denied plaintiffs' motion to supplement the record in their pro se action against Sierra County and others. The court held that the motion was procedurally improper and unnecessary because plaintiffs had no burden to submit supporting evidence at the motion-to-dismiss stage and had not shown a valid reason for additional briefing.

CASE DETAILS

|                       |                                                                                                                                                                              |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                          |
| WRITING FOR THE COURT | Carolyn K. Delaney                                                                                                                                                           |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                          |
| DECIDED               | July 28, 2025                                                                                                                                                                |
| DOCKET                | 2:25-cv-1113-DAD-CKD (PS)                                                                                                                                                    |
| DISPOSITION           | other                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Plaintiffs proceeding without counsel moved to supplement the record while several defendants' motions to dismiss the first amended complaint were pending.                  |
| STANDARD OF REVIEW    | On a motion to dismiss for failure to state a claim, the court accepts the complaint's allegations as true and construes them in the light most favorable to the plaintiffs. |
| PRECEDENTIAL VALUE    | Unpublished district court order; limited persuasive value.                                                                                                                  |
| PARTIES               | Richard Wayne, Michal Mickey Wayne v. Sierra County, et al.                                                                                                                  |

TOPICS

- motions to dismiss
- pleadings
- civil procedure
- evidence

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether plaintiffs could supplement the record with additional evidence while motions to dismiss the first amended complaint were pending.
2. Whether plaintiffs were entitled to additional briefing, including a sur-reply or second opposition, beyond the briefing authorized by the court's rules.

## HOLDINGS

1. The motion to supplement the record was procedurally improper and unnecessary because plaintiffs had no burden at that stage to submit evidence in support of their claims.
2. Plaintiffs had no right under the Federal Rules of Civil Procedure or the court's Local Rules to file a sur-reply or second opposition, and they failed to show a valid reason for additional briefing.

## KEY QUOTATIONS

*“In evaluating whether the FAC states a claim on which relief may be granted, for example, the court will accept as true the allegations in the complaint and construe the allegations in the light most favorable to plaintiffs.”* (at 1)

*“Neither the Local Rules nor the Federal Rules of Civil Procedure provide the right to file a sur-reply or a second opposition to a motion.”* (at 2)

## FACTUAL BACKGROUND

Richard Wayne and Michal Mickey Wayne, proceeding pro se, filed a first amended complaint concerning issues involving their residence in the Sierra Brooks Subdivision in Sierra County, California. The complaint named 22 defendants. While motions to dismiss were pending, plaintiffs sought to supplement the record with evidence purportedly relevant to their claims and to statements made by defense counsel.

## PROCEDURAL HISTORY

Plaintiffs filed a first amended complaint naming 22 defendants and asserting claims arising from issues involving their residence in Sierra County, California. Several defendants filed motions to dismiss, some of which remained under briefing. Plaintiffs then moved to supplement the record with purported supplemental evidence, and the court denied that motion.

## DISPOSITION

other

## CASES CITED

- Hishon v. King & Spalding, 467 U.S. 69, 73 (1984)

- Love v. United States, 915 F.2d 1242, 1245 (9th Cir. 1989)

## OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF  
CALIFORNIA 10 11 RICHARD WAYNE, et al., No. 2:25-cv-1113-DAD-CKD (PS) 12 Plaintiffs,  
13 v. ORDER 14 SIERRA COUNTY, et al., 15 Defendants. 16 17 18 Plaintiffs Richard Wayne and  
Michal Mickey Wayne proceed without counsel on their 19 first amended complaint (“FAC”)  
naming 22 defendants and bringing claims arising from issues 20 involving their residence in the  
Sierra Brooks Subdivision in Sierra County, California.

(ECF No. 21 51.) Several of the defendants have filed motions to dismiss, some of which are still  
being 22 briefed. 23 On July 22, 2025, plaintiffs filed a motion to supplement the record stating  
they seek to 24 present “supplemental evidence... necessary to fully represent [their] claim and  
rebut statements 25 made by [defense counsel].” (ECF No. 101 at 3.) Plaintiffs state they are  
presenting the evidence 26 pursuant to Rule 404(b)(2) and 406 of the Federal Rules of Civil  
Procedure (id. at 7), but the 27 court understands plaintiffs to be referring to the Federal Rules of  
Evidence.

Plaintiffs’ motion to 28 supplement the record is procedurally improper and additionally  
unnecessary to the extent that 1 | plaintiffs do not have any burden to submit evidence in support  
of their claims at this time.

In 2 || evaluating whether the FAC states a claim on which relief may be granted, for example, the  
court 3 || will accept as true the allegations in the complaint and construe the allegations in the  
light most 4 | favorable to plaintiffs. See *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984); *Love*  
*v. United* 5 || *States*, 915 F.2d 1242, 1245 (9th Cir. 1989). 6 For briefing of motions to dismiss, this  
court’s Local Rules provide for a motion, an 7 || opposition, and a reply.

See Local Rule 230(m). Neither the Local Rules nor the Federal Rules of 8 | Civil Procedure  
provide the right to file a sur-reply or a second opposition to a motion. Because 9 || plaintiffs do  
not have any burden to submit evidence in support of their claims at this time, and 10 || because  
they have not shown a valid reason for briefing on the motions to dismiss beyond what is 11 ||  
provided by the court’s rules, the motion to supplement the record will be denied.

12 Accordingly, IT IS ORDERED that plaintiffs’ motion to supplement the record (ECF No. 13 |  
101) DENIED. 14 || Dated: July 28, 2025 fed) / dha MIG f- A. CAROLYNK.DELANEY 16  
UNITED STATES MAGISTRATE JUDGE 17 18 || 8, wayn25ev1113.101 19 20 21 22 23 24 25  
26 27 28