

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

OPINION

(PS) Wayne v. Sierra County

PER CURIAM.

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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

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