

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 27 2021

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

BRIESA McCLAIN; JOAQUIN McCLAIN,

No. 20-55544

Plaintiffs-Appellants,

D.C. Nos.

v.

5:18-cv-01648-CJC-PLA

COUNTY OF SAN BERNARDINO; et al.,

5:17-cv-01178-CJC-PLA

Defendants-Appellees,

MEMORANDUM*

and

JORDAN BERNAL; et al.,

Defendants.

Appeal from the United States District Court
for the Central District of California
Cormac J. Carney, District Judge, Presiding

Submitted April 20, 2021**

Before: THOMAS, Chief Judge, TASHIMA and SILVERMAN, Circuit Judges.

Briesa and Joaquin McClain appeal pro se from the district court's judgment

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

dismissing their consolidated action alleging various federal claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal under Fed. R. Civ. P. 12(b)(6). *Conservation Force v. Salazar*, 646 F.3d 1240, 1241 (9th Cir. 2011). We affirm.

The district court properly dismissed the McClains's action because the McClains failed to allege facts sufficient to state any plausible claims, and because the complaint failed to comport with the requirements of Federal Rule of Civil Procedure 8. *See* Fed. R. Civ. P. 8(a), (d)(1) (a pleading that states a claim for relief must contain a short and plain statement of the claim showing that the pleader is entitled to relief; each allegation must be simple, concise, and direct); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (to avoid dismissal, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face" (citation and internal quotation marks omitted)).

The district court properly denied Briesa McClain's motion for partial summary judgment as premature and moot.

The district court did not abuse its discretion by denying the McClain's request for judicial notice. *See* Fed. R. Evid. 201(b) (outlining the requirements for judicial notice).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on

appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

All pending motions are denied.

AFFIRMED.