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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANDREA JARREAU-GRIFFIN, et al.,
Plaintiffs,
v.
CITY OF VALLEJO, et al.,
Defendants.

2:12-CV-2979 KJM KJN

ORDER

Pending before the court is defendants’ motion for judgment on the pleadings, which the court ordered submitted without argument. After considering the motion and the docket in this case, the court DENIES the motion without prejudice.

Under Rule 12(c) of the Federal Rules of Civil Procedure, a motion for judgment on the pleadings may be filed “[a]fter the pleadings are closed---but early enough not to delay trial” The pleadings are closed once a complaint and an answer have been filed, assuming there is no counterclaim or cross-claim. *Doe v. United States*, 419 F.3d 1058, 1061 (9th Cir. 2005). A motion under Rule 12(c) filed before an answer is filed is “procedurally premature” and should be denied. *Id.* The docket in this case reflects that neither defendant has filed an answer.

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IT IS THEREFORE ORDERED that:

1. Defendants' motion for judgment on the pleadings, ECF No. 23, is denied without prejudice; and

2. Plaintiffs' ex parte application for an extension of time, ECF No. 28, is denied as moot.

DATED: November 5, 2013.


UNITED STATES DISTRICT JUDGE