

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

United States District Court  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FRANK AND DEBORAH MCDOWELL,  
Plaintiffs,  
v.  
CITY AND COUNTY OF SAN FRANCISCO,  
Defendant.

No. C 12-03192 JSW  
**ORDER RE REPLY BRIEF TO  
PROPOSED ORDER GRANTING  
MOTION TO DISMISS AND  
FOURTH MOTION FOR  
APPOINTMENT OF COUNSEL**  
**(Docket Nos. 28 and 29)**

On October 16, 2012, the Court issued an Order granting Defendant’s motion to dismiss, and granting Plaintiffs leave to file an amended complaint. On October 15, 2012, Plaintiffs filed a “Reply Brief to Proposed Order Granting Motion to Dismiss Plaintiffs’ Oppose,” and a “Proposed Order Granting Motion for Appointment of Counsel at Government Expense,” which the Court shall construe as Plaintiffs’ fourth motion for appointment of counsel. These documents did not get entered on the Court’s docket, and the Court did not receive chambers copies of those documents, until after it ruled on the pending motion to dismiss. In the “Reply” docketed as Document 28, Plaintiffs state that they included a Fair Labor Standards Act claim on their civil cover sheet, and submitted a motion to amend to include claims under the Civil Rights Act and the Civil Service Reform Act.

The Court has granted Plaintiffs leave to file an amended complaint by November 16, 2012. If Plaintiffs wish to attempt to plead such claims in the amended complaint allowed by the Court, they may do so. If Defendants move to dismiss, they shall not argue that those claims are beyond the scope of amendment permitted by the Court in its Order dated October

1 16, 2012. By this Order, The Court expresses no opinion on the viability of the claims  
2 referenced in Docket No. 28.

3 The Court AGAIN ADVISES Plaintiffs that the Handbook for Pro Se Litigants, which  
4 contains helpful information about proceeding without an attorney, is available through the  
5 Court's website or in the Clerk's office. The Court AGAIN ADVISES Plaintiffs that they also  
6 may wish to seek assistance from the Legal Help Center, and it encourages them to make an  
7 appointment before filing an amended complaint. Plaintiffs may call the Legal Help Center at  
8 415-782-9000, extension 8657, or sign up on the 15th Floor of the Courthouse, Room 2796, for  
9 a free appointment with an attorney who may be able to provide basic legal help, but not legal  
10 representation.

11 If Plaintiffs choose to file an amended complaint, they shall file and serve the amended  
12 complaint by no later than November 16, 2012. If Plaintiffs fail to file an amended complaint  
13 by that date or fail to seek a request for an extension of time showing good cause to extend that  
14 deadline by November 16, 2012, the Court shall dismiss this case with prejudice.

15 Finally, for the reasons set forth in the Court's Order dated October 16, 2012, the Court  
16 DENIES the fourth motion for appointment of counsel.

17 **IT IS SO ORDERED.**

18  
19 Dated: October 22, 2012

  
\_\_\_\_\_  
JEFFREYS WHITE  
UNITED STATES DISTRICT JUDGE

20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

FRANK AND DEBORAH MCDOWELL  
et al,

Case Number: CV12-03192 JSW

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

CITY AND COUNTY OF SAN  
FRANCISCO et al,


Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 22, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Deborah McDowell  
Frank McDowell  
2800 Bellwort Court  
Antioch, CA 94531

Dated: October 22, 2012

  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk