

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NOE ADALBERTO SILVA, et al.,

Plaintiffs,

v.

BRETT BENNETT, et al.,

Defendants.

Case No. 17-cv-06550-VC

**ORDER DISMISSING CASE WITHOUT
PREJUDICE AND DENYING MOTION
FOR SANCTIONS**

Re: Dkt. Nos. 13, 14

1. This action is dismissed as duplicative. The plaintiffs do not contest that both this case and *Silva v. City of San Pablo*, No. 3:16-cv-04360-VC, have identical causes of action and pursue the same relief. *See Adams v. California Department of Health Services*, 487 F.3d 684, 689 (9th Cir. 2007). Nor do the plaintiffs contest that the parties in the two actions are either the same or in privity for purposes of claim-splitting and claim preclusion. *See, e.g., Tahoe-Sierra Pres. Council, Inc. v. Tahoe Regional Planning Agency*, 322 F.3d 1064, 1081-82 (9th Cir. 2003); *Bojorquez v. Abercrombie & Fitch, Co.*, 193 F. Supp. 3d 1117, 1124 (C.D. Cal. 2016).

Dismissal is appropriate because it appears that the plaintiffs have filed this second suit to circumvent the procedural rules that govern the amendment of complaints. *See Cook v. C.R. England, Inc.*, No. CV 12-3515-GW, 2012 WL 2373258, at *9 (C.D. Cal. June 21, 2012). The dismissal is without prejudice, and the court will address the plaintiffs' motion for leave to amend the *Silva v. City of San Pablo* complaint once that motion has been fully briefed.

2. The motion for sanctions is denied. *See* Dkt. No. 14. If anything, both sides should be sanctioned for wasting the Court's time – plaintiffs' counsel for bringing an obviously duplicative lawsuit and defendants' counsel for making a frivolous res judicata argument.

3. The clerk of the court is directed to close this case.

IT IS SO ORDERED.

Dated: February 20, 2018



VINCE CHHABRIA
United States District Judge