

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANA BRYANT, et al.,

Plaintiffs,

v.

SUNDARI MASE, et al.,

Defendants.

Case No. 20-cv-03243-VC

**ORDER GRANTING MOTIONS TO
DISMISS**

Re: Dkt. Nos. 18, 23

The motions to dismiss are granted because the complaint fails to state a plausible claim for relief. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Most importantly, the Bryants do not plausibly allege that the measures taken in response to the Covid-19 pandemic “exceed[]” the “broad” authority and “latitude” of county and local officials to answer the “dynamic and fact-intensive” question of how to enact pandemic-related restrictions. *South Bay United Pentecostal Church v. Newsom*, 140 S. Ct. 1613, 1613-14 (2020) (Roberts, C.J., concurring); see *Jacobson v. Commonwealth of Mass.*, 197 U.S. 11, 31 (1905); *Altman v. County of Santa Clara*, 2020 WL 2850291, at *7-12 (N.D. Cal. June 2, 2020); *Six v. Newsom*, 2020 WL 2896543, at *3-7 (C.D. Cal. May 22, 2020).

And more generally, the Bryants do not appear to have made any meaningful effort to analyze which claims could conceivably be viable; instead, they have tossed in any remotely relevant-sounding legal theory, perhaps with the expectation that the mess will be sorted out later. To mention just one example, the complaint does not adequately allege the loss of a possessory interest in property, as required to state a Fourth Amendment seizure claim. See *Soldal v. Cook County, Ill.*, 506 U.S. 56, 61 (1992). This is not how to file a lawsuit. The Bryants and their counsel are on notice that inclusion of frivolous claims in the amended complaint could

result in sanctions.

The same is true of the Bryants' seemingly-random decision to drag so many individual defendants into the lawsuit. Indeed, the Bryants appear to concede that an amended complaint is required to clarify the roles of the various defendants, noting that because their "entire suit is based on Monell liability, it may be more proper to view the remaining County Defendants as simply being the County as the Defendant," and that they will plead "in an amended complaint" the facts necessary to show why the Santa Rosa Police Department is liable. Opp. to Defendants' Motion to Dismiss at 2, 13 (Dkt. No. 22).

The complaint is thus dismissed in its entirety with leave to amend. Any amended complaint must be filed within 21 days of this order. Responses are due 21 days after the filing of the amended complaint. The request for judicial notice is denied as moot.

IT IS SO ORDERED.

Dated: September 8, 2020



VINCE CHHABRIA
United States District Judge