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TAYLOR WHITLEY AND
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8
9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11
12 TAYLOR WHITLEY, and
WTF.INDUSTRIES, LLC,

13 Plaintiffs,

14 v.

15 CLARE MAGUIRE, JAKE
16 NYGARD, ANTONIUS
WIRIADJAJA, DONGLEE HAN,
17 and DOES 1-10, Inclusive.

18 Defendants.

Case No. 2:22-cv-01837-ODW (JEMx)

**TAYLOR WHITLEY AND
WTF.INDUSTRIES, LLC’S
OPPOSITION TO DEFENDANTS’
MOTION TO DISMISS
PLAINTIFFS’ COMPLAINT**

District Judge: Hon. Otis D. Wright, II
Date: May 16, 2022
Time: 1:30 p.m.
Courtroom: 5D

Complaint filed: March 21, 2022

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28 Case No. 2:22-cv-01837-ODW (JEMx)

TAYLOR WHITLEY AND
WTF.INDUSTRIES, LLC’S OPPOSITION
TO DEFENDANTS’ MOTION TO DISMISS
PLAINTIFFS’ COMPLAINT

1 Plaintiffs Taylor Whitley (“Whitley”) and WTF.Industries, LLC
2 (“WTF.Industries”) (collectively “Plaintiffs”) respond to Defendants Clare Maguire
3 (“Maguire”), Jake Nygard (“Nygard”), Antonius Wiriadjaja (“Wiriadjaja”), and
4 DongLee Han (“Han”) (collectively, “Defendants”)’s Motion to Dismiss [Dkt. 14]
5 (the “Motion”) as follows:

6 As Defendants acknowledge in their Motion, pursuant to Central District of
7 California Local Rule 7-3, counsel for Plaintiffs and Defendants conferred on April
8 8, 2022, and spoke, at length, about the arguments made in Defendants’ Motion.
9 However, Defendants’ short affirmation does not reflect the conversation which took
10 place, where Plaintiffs’ counsel repeatedly explained to Defendants’ counsel that
11 Plaintiffs would be filing an amended complaint – their right as a matter of course
12 under the Federal Rules of Civil Procedure – in response to the arguments brought
13 up in the conference, which would moot the Motion. Despite the offer, which would
14 have saved Defendants from drafting and filing a wholly unnecessary pleading,
15 Defendants nevertheless filed their Motion on April 15, 2022.

16 Defendants’ Motion serves no purpose at this early phase in litigation except
17 to generate legal fees and waste judicial resources. Federal Rule of Civil Procedure
18 15(a)(1)(B) grants Plaintiffs 21 days from the filing of a responsive pleading to
19 amend their Complaint as a matter of course, just as Plaintiffs averred in the Local
20 Rule 7-3 conference. Not only will Plaintiffs address each of the concerns that
21 Defendants’ counsel raised in their amended complaint, but many of the arguments
22 in the Motion can be resolved through simple amendment – a fact acknowledged by
23 Defendants’ counsel at the April 8, 2022, conference of counsel. Such amendment is
24 unquestionably appropriate at this early phase of the matter. *Hoffman v. Preston*,
25 2019 WL 1229771 at *2 (E.D. Cal. 2019) (“Under the plain reading of the rule ...
26 Plaintiff should be allowed to amend as a matter of course, as he filed his amended
27 complaint within 21 days after Defendant filed the Rule 12(b) motion to dismiss, and

1 no responsive pleadings have been filed.”)

2 Both this Court’s standing order and applicable caselaw support Plaintiffs’
3 aims here. This Court’s own standing order requires “Counsel should discuss the
4 issues to a sufficient degree that if a motion is still necessary, the briefing may be
5 directed to those substantive issues requiring resolution by the Court. Counsel should
6 resolve minor procedural or other non-substantive matters during the conference.”¹
7 Instead of a focused briefing, Defendants’ Motion seeks findings of law on a litany
8 of complaints, most of which involve allegations of insufficient pleadings that can be
9 addressed by the amended complaint Plaintiffs have been proposing since the April
10 8, 2022, conference of counsel. “Local Rule 7-3 isn't just a piece of petty pedantry
11 put down to trip up lawyers. Nor is Local Rule 7-3 a mere formalism simply there
12 to be checked off by lawyers.” *See Lopez v. Wells Fargo Bank, N.A.*, No. SACV 16-
13 01409 AG (KESx), 2016 WL 6088257, at *2 (C.D. Cal. Oct. 17, 2016). “Rather, the
14 rule allows excellent lawyers to “avoid unnecessary litigation,” “focus and clarify
15 disputes,” and “fully honor [their] own obligations under Federal Rule of Civil
16 Procedure 1.” *Vape Society Supply Corp. v. Zeiadeh*, 2017 WL 2919080 at *2 (C.D.
17 Cal. 2017). Where Plaintiffs took the conference seriously, attempting to resolve the
18 disputes raised by Defendants and offering an amendment to correct the issues,
19 Defendants nevertheless instituted this Motion, which neither avoids unnecessary
20 litigation nor seeks to focus or clarify the dispute.

21 Furthermore, and most glaring, neither the Complaint [Dkt. 1] nor Defendants’
22 Complaint (identified by their Notice of Related Cases [Dkt. 16]) have even been
23 served yet. As such, neither the Federal Rules of Civil Procedure nor this Court’s
24 Local Rules necessitated this filing, which could have been avoided through the
25 Parties’ continued conversation and Plaintiffs’ amendment right. Local Rule 7-3
26 seeks to prevent the filing of motions whose result can be resolved through

27 ¹ Section VII.A.2 - <https://www.cacd.uscourts.gov/honorable-otis-d-wright-ii>.

1 conference. While Plaintiffs offered resolution to this Motion without it being filed,
2 Defendants surged forward anyways.

3 Therefore, to avoid unnecessary motion practice and to promote judicial
4 economy and conserve judicial resources, and as expressly allowed by the Federal
5 Rules of Civil Procedure Rule 15(a)(1)(B), Plaintiffs will file an amended complaint
6 within 21 days of service of Defendants’ Motion. As such, Plaintiffs’ respectfully
7 request that the Court stay Defendants’ Motion until Plaintiffs time to file their
8 Amended Complaint closes, as Plaintiffs expect to moot each and every basis of
9 Defendants’ Motion with their amended complaint.

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Dated: April 25, 2022

ARENTFOX SCHIFF LLP

By: /s/ John S. Purcell
John S. Purcell
Jake Gilbert
Attorneys for Plaintiffs
TAYLOR WHITLEY and
WTF.INDUSTRIES, LLC