Vermont Superior Court
Filed 09/21/26
Washington Unit

VERMONT SUPERIOR COURT
Washington Unit
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CIVIL DIVISION
Case No. 26-CV-02568

Justin Blake, et al v. Melisa Mahony

ENTRY REGARDING MOTION

Title: Motion to Alter or Amend Judgement, In Alternative, leave to file amended complaint (Motion: 3)
Filer: Mario Bernard Hankerson
Filed Date: August 18, 2026

The motion is DENIED.

After the Court granted Ms. Mahony's Rule 12(b)(6) motion to dismiss, Plaintiffs filed a Rule 59(e) motion to alter or amend. They request "in the alternative" to amend the complaint, which in fact presumes that the case first would be reopened. See *Stowe Aviation, LLC v. Agency of Commerce & Community Development*, 2024 VT 11, ¶¶ 21–23, 219 Vt. 70. In the circumstances of this case, the Court has considered both requests together as the proposed amended complaint, at least in part, informs the Rule 59 request.

Plaintiffs seek Rule 59 relief arguing: (1) the dismissal decision relied on a pivotal factual admission that did not exist; (2) the Court got the substantive law wrong on almost every claim evaluated; and (3) Plaintiffs have obtained new evidence since the decision, and that as well as extensive "curative" allegations in the proposed amended complaint demonstrate that they have potentially meritorious claims and should be permitted to pursue them so that the case can be resolved on the merits.

As to the disputed "admission," if use of the term was inaccurate it is also immaterial. The dismissal decision relied in no material way on any admission. Under Rule 12(b)(6), the Court was evaluating the allegations of the complaint alone. The use of the term "admission" was simply another way to characterize the factual limitations of Plaintiffs' complaint. As such, the Court finds no error in its analysis.

Plaintiffs' newly acquired evidence, new allegations in the proposed amended complaint, and substantive disagreement with the Court's view of the law do not persuade the Court that it

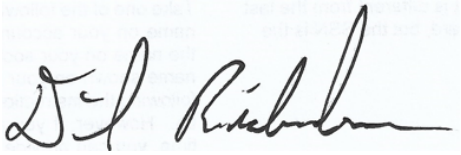
overlooked anything or that Plaintiffs' amended claims, even with the benefit of any new evidence or allegations, have potential merit.

At the end of the day, Plaintiffs' original complaint and proposed amended complaint both attempt to claim that an land value appraiser hired by a bank in 2021 to appraise the collateral for a proposed home equity line of credit, and who did nothing relevant in this case but provide that appraisal to the bank, somehow ended up with a duty to the homeowners that could have led to liability for the damage caused by catastrophic flooding in 2023.

Nothing in Plaintiffs' briefing persuades the Court that, if amendment were permitted, the outcome would be any different than as set forth in the dismissal decision.

Plaintiffs' motion is **Denied**.

Electronically signed on 9/18/2026 6:19 PM pursuant to V.R.E.F. 9(d)



Daniel Richardson
Superior Court Judge