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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEANU ETHAN CAMPOS,
Plaintiff,
v.
COUNTY OF KERN, et al.,
Defendants.

No. 1:14-cv-01099-DAD-JLT

ORDER DIRECTING SUBMISSION OF
ADDITIONAL BRIEFING

(Doc. No. 36)

The operative pleading in this action is plaintiff's First Amended Complaint filed on October 9, 2014. (Doc. No. 19). The first cause of action in that amended complaint purports to be a survivorship action for a civil rights violation (id. at 5-8), while the second cause of action purports to be for wrongful death based upon a civil rights violation. (Id. at 8-9.) The defendants filed a motion for summary judgment on February 10, 2016. (Doc. No. 36.) In their motion, defendants purport to move for summary judgment in their favor as to both causes of action.

The court has determined that the issues raised by the pending summary judgment motion require additional briefing with respect to plaintiff's wrongful death claim. In their motion, defendants argue that they are entitled to judgment as a matter of law on the plaintiff's wrongful death claim. (Doc. No. 36-1 at 14.) They based their argument on a claimed entitlement to immunity under California Government Code § 844.6(a)(2) and plaintiff's alleged violation of

1 California's "one action rule" for wrongful death actions. (*Id.*) Defendants do not appear to
2 have addressed, or moved for summary judgment in their favor on, the merits of plaintiff's
3 wrongful death claim. In their opposition papers, plaintiff argued that the "one action rule" does
4 not require the court to dismiss the wrongful death action in this case. (Doc. No. 37 at 16-17.) In
5 their reply defendants withdrew their argument for summary judgment on the second cause of
6 action based upon the "one action rule." (Doc. No. 41 at 10.)

7 The court seeks clarification as to the basis for defendants' motion for summary judgment.
8 as to plaintiff's wrongful death claim. Is defendants' motion now based solely on a claimed
9 entitlement to immunity under California Government Code § 844.6(a)(2) and not on the merits
10 of that claim based upon evidence presented on summary judgment? In order to assist resolution
11 of the pending motion, the court directs defendants and plaintiff to file supplemental briefing with
12 respect to this issue.

13 CONCLUSION

14 Accordingly, for the reasons set forth above:

15 1. Defendants are directed to file a brief clarifying their position on summary judgment as
16 to plaintiff's wrongful death claim, within seven days of this order. Defendants' brief may be no
17 longer than five pages in length.

18 2. Plaintiff is granted leave to file, at their election, an opposition brief to defendants'
19 supplemental brief, within fourteen days of this order. Plaintiff's brief may be no longer than five
20 pages in length.

21 IT IS SO ORDERED.

22 Dated: March 17, 2016

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24 _____
25 UNITED STATES DISTRICT JUDGE