1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 MICHAEL MADDEN, Successor-in-Case No. 1:18-cv-00255-DAD-BAM (PC) Interest to Ryan P. Madden, et al., 12 ORDER GRANTING DEFENDANTS' Plaintiffs. REQUEST FOR EXTENSION OF TIME TO 13 FILE A REPLY IN SUPPORT OF **DEFENDANTS' MOTION TO DISMISS** v. 14 HICKS, et al., (ECF No. 40) 15 Defendants. Reply Deadline: November 24, 2020 16 17 Plaintiffs Michael Madden and Kathy Madden, as Successors-in-Interest to Ryan P. 18 Madden, (collectively, "Plaintiffs") are proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendant Hicks for 19 20 excessive force and assault and battery claims, and against Defendants Silva and Hicks for 21 California Bane Act and retaliation claims. 22 On July 15, 2020, Defendants filed a partial motion to dismiss the state law claims against both Defendants and the Bane Act and First Amendment retaliation claims against Defendant 23 24 Silva. (ECF No. 31.) Following two extensions of time, Plaintiffs filed their opposition on

November 2, 2020. (ECF No. 37.) As the opposition was not docketed until November 3, 2020, Defendants' reply is therefore due on or before November 10, 2020.

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Currently before the Court is Defendants' motion for an extension of time to file a reply, filed November 10, 2020. (ECF No. 40.) Although Plaintiffs have not had an opportunity to

respond to Defendants' motion, the Court finds a response unnecessary. Local Rule 230(1). A declaration of counsel filed in support of the request states that defense counsel is currently preparing a reply to Plaintiffs' opposition. (ECF No. 40.) However, due to the recent press of business in other cases, he was prevented from completing and filing Defendants' reply. Counsel requests an extension of fourteen days, up to and including November 24, 2020, to complete drafting Defendants' reply and to have the draft reviewed by his supervising attorney. (Id.) It does not appear that Defendant attempted to confer with Plaintiffs before filing the request. Having considered the request, the Court finds good cause to modify the briefing schedule in this matter. Fed. R. Civ. P. 6(b). The Court further finds that Plaintiffs will not be prejudiced by the brief extension of time requested here. However, as it appears that defense counsel has previously communicated with Plaintiffs by telephone regarding Plaintiffs' requests for extensions of deadlines, the Court notes that in the future, defense counsel should also attempt to confer with Plaintiffs before filing such requests. Accordingly, Defendants' request for an extension of time to file a reply in support of Defendants' motion to dismiss, (ECF No. 40), is HEREBY GRANTED. Defendants shall file a reply on or before **November 24, 2020**. IT IS SO ORDERED. Dated: November 12, 2020