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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

MATTHEW G. GREGORY, et al.,  
Plaintiffs,  
v.  
FRESNO COUNTY, et al.,  
Defendants.

Case No. 1:18-cv-00524-LJO-SAB  
ORDER DISREGARDING OPPOSITION  
AND REQUEST FOR JUDICIAL NOTICE  
AND STRIKING PLAINTIFFS’  
OPPOSITIONS TO DEFENDANTS’  
MOTIONS TO DISMISS FOR VIOLATION  
OF COURT ORDER  
(ECF Nos. 40, 41, 43)  
DEADLINE: AUGUST 6 BY NOON

Defendants in this action have filed two motions to dismiss that have been referred to the undersigned for the preparation of findings and recommendations. On June 6, 2018, the state defendants filed a request for an extension of the page limitations on their motion to dismiss. (ECF No. 18.) The district judge granted the request and extended the page limitations for both the state defendants’ motion to dismiss and Plaintiffs’ opposition. (ECF No. 20.) On July 17, 2018, Plaintiffs filed a request for an extension of the page limitations for their oppositions which was opposed by State Defendants. (ECF Nos. 36, 37.) On July 19, 2018, an order issued denying Plaintiffs’ request for an extension of the page limitations. (ECF No. 38.) The order provided that “Plaintiffs’ points and authorities in the opposition to the State Defendants’ motion to dismiss shall not exceed 33 pages and the points and authorities in the opposition to the County Defendants’ motion to dismiss shall not exceed 25 pages. Plaintiffs may file a renewed

1 request with additional information in an attempt to show good cause for an extension of these  
2 page limits.” (Id. at 3:9-13.) Plaintiffs did not file a renewed request to extend the page limits  
3 for the oppositions.

4 On August 1, 2018, Plaintiffs filed three oppositions; two notices of judicial notice of  
5 additional facts discovered; declarations of Gina Gregory; Matthew G. Gregory, and Matthew J.  
6 Gregory; and two notices of intent to appear in opposition to the motions to dismiss. (ECF No.  
7 39-48. The first two documents filed, Plaintiffs’ request for judicial notice and opposition to  
8 State Defendants’ motion to dismiss (ECF Nos. 39, 40) were refiled with slight changes (ECF  
9 Nos. 42, 43). The Court shall disregard the documents originally filed. Counsel is advised that  
10 the prudent practice would be to either caption the later filed documents as amended or to notify  
11 the Clerk of the Court that the originally filed documents were filed in error and request that they  
12 be terminated from the docket.

13 The Court has reviewed the oppositions that were filed by Plaintiffs. While the  
14 oppositions themselves at first glance would appear to comply with the order regarding page  
15 limitations, upon review each of the oppositions have large single-spaced footnotes containing  
16 case law or argument that are substantive. For example, Plaintiff’s memorandum of points and  
17 authorities in opposition to the State Defendants’ motion to dismiss is thirty-three pages in  
18 length, but contains fourteen footnotes with substantive law or argument that occupy  
19 approximately one third to one half of the page. (ECF No. 43 at pp. 12, 13, 14, 16, 19, 21, 23,  
20 26, 31, 33, 34, 35, 36, 41.) Had this law and argument been included in the body of the  
21 opposition, rather than in a single-spaced footnote, it would have substantially increased the  
22 length of the brief to well over the thirty-three page limit imposed by the court. Review of the  
23 opposition to the County Defendants, while not as egregious, shows similar use of footnotes  
24 which would violate the Court’s order had the information been included in the body of the brief.  
25 (ECF No. 41 at 10, 11, 12, 29, 31.)

26 The Court finds that this is an attempt to avoid the page limitations set forth in the June  
27 12, 2018 and July 19, 2018 orders. Thus, the Court shall strike Plaintiffs oppositions from the  
28 record and require Plaintiffs to file an opposition that complies with the July 19, 2018 order.

1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. Plaintiffs' notice of judicial notice of additional facts discovered (ECF No. 39)  
3 and opposition to State Defendants' motion to dismiss (ECF No. 40) are  
4 DISREGARDED;
- 5 2. Plaintiffs' opposition to County of Fresno, Lisa Smittcamp and Jeffrey Dupras'  
6 Defendants' motion to dismiss (ECF No. 41) and Plaintiffs' opposition to State  
7 Defendants' motion to dismiss (ECF No. 43) are STRICKEN FROM THE  
8 RECORD;
- 9 3. Plaintiffs shall file oppositions that comply with the page limitations set forth in  
10 the July 19, 2018 order **by noon on August 6, 2018**;
- 11 4. Defendants reply, if any, shall be filed on or before **August 10, 2018**; and
- 12 5. If Plaintiffs' fail to file oppositions in compliance with this order, Defendants'  
13 motions to dismiss shall be deemed unopposed.

14 IT IS SO ORDERED.

15 Dated: August 2, 2018

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18 UNITED STATES MAGISTRATE JUDGE  
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