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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ESTATE OF ROBERT CLIFFORD, et
al.,

Plaintiffs,

v.

PLACER COUNTY, et al.,

Defendants.

No. CIV. S-11-2591 LKK/CKD

ORDER

17 On May 5, 2014, this matter came on for oral argument on
18 defendants' motion for summary judgment (ECF No. 21). After oral
19 argument, the decision of the United States Supreme Court in
20 Tolan v. Cotton, ___ S.Ct. ___, 2014 WL 1757856 (May 5, 2014),
21 came to the court's attention. On May 7, 2014, the court issued
22 an order granting the parties ten days in which to file
23 supplemental briefs addressing the application, if any, of the
24 decision in Tolan to the motion at bar.

25 Defendants filed their supplemental brief on May 13, 2014.
26 On May 22, 2014, plaintiffs filed a supplemental brief
27 accompanied by two declarations. On the same day, defendants
28 filed a response to plaintiffs' supplemental brief, and on May


1 22, 2014, plaintiffs filed a response to defendants' response.
2 Defendants object to the inclusion of the declarations and the
3 briefing thereon, contending it exceeds the scope of the court's
4 May 7, 2014 order and that said evidence could and therefore
5 should have been filed with plaintiffs' opposition to the motion.
6 Defendants request that the evidence and briefing thereon be
7 stricken. In the alternative, they seek an additional period in
8 which to respond to plaintiffs' additional argument and evidence
9 and to raise specific evidentiary objections thereto.

10 Good cause appearing, IT IS HEREBY ORDERED that:

11 1. Defendants' request to strike the two declarations filed
12 by plaintiffs on May 22, 2014 and the briefing thereon is denied;
13 and

14 2. Defendants are granted fifteen days from the date of
15 this order in which to respond to plaintiffs' evidence and
16 argument thereon. Thereafter, defendants' motion for summary
17 judgment will stand submitted and no further briefing shall be
18 filed.

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20 DATED: May 23, 2014.

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24 LAWRENCE K. KARLTON
25 SENIOR JUDGE
26 UNITED STATES DISTRICT COURT
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