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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT KALANI,
Plaintiff,
v.
CASTLE VILLAGE LLC, FUJINAKA
PROPERTIES, L.P.,
Defendants.

No. CIV. S-12-2330 LKK/CKD

ORDER

Defendants have filed an application for reconsideration of this court's March 13, 2014 order striking their second summary judgment motion (ECF No. 43), filed while their first summary judgment motion was still pending a hearing. Defendants assert that they are being denied their Due Process rights because outside of filing a new, successive summary judgment motion, they had, and continue to have, no way to bring their mootness arguments before the court.

The assertion is frivolous. Defendants were free to include whatever mootness arguments they wished in their Reply papers, which they filed on the same day (March 10, 2014), that they

1 filed their successive summary judgment motion. Moreover,
2 defendants are still free to include whatever mootness arguments
3 they wish in their upcoming opposition to plaintiff's motion for
4 summary judgment.

5 Defendants' application does not explain why they did not,
6 or could not, include their mootness arguments in their Reply,
7 nor why they cannot include them in their upcoming opposition to
8 plaintiff's motion for summary judgment. Nor does the
9 application explain why these opportunities to be heard on the
10 mootness issue are not dispositive of defendants' Due Process
11 concerns.

12 Accordingly, defendants' application for reconsideration
13 (ECF No. 45) is **DENIED**.

14 IT IS SO ORDERED.

15 DATED: March 21, 2014.

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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT