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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALICIA WAGNON, et al.,  
Plaintiffs,  
v.  
ROCKLIN U.S.D., et al.,  
Defendants.

No. 2:17-cv-1666-KJN-CONSENT

ORDER RESETTING SUMMARY  
JUDGMENT MOTION AND  
ORDER FOR SUPPLEMENTAL BRIEFING

Currently pending before the court is defendants' motion for summary judgment, which plaintiffs oppose.<sup>1</sup> (ECF Nos. 59, 63.) Upon review, the court ordered the parties to supplement their briefs concerning the scope of their arguments. (ECF No. 66.) The parties conferred and agreed to vacate the hearing on the motion so that they could attend a settlement conference. (ECF Nos. 67, 68.) On May 15, 2023, Magistrate Judge Delaney issued a minute order noting the case did not settle. (ECF No. 73.) Thereafter, counsel inquired with the undersigned's courtroom deputy about resetting the motion without need for it to be fully refiled. The court concurs, and will resume addressing defendants' motion. However, after further review, the court has determined that a hearing on the matter is not necessary, and so will take the motion under submission pursuant to Local Rule 230(g).

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<sup>1</sup> The matter is before the undersigned pursuant to the parties' consent to the magistrate judge's jurisdiction for all purposes, as per 28 U.S.C. § 636(c). (ECF Nos. 23, 24.)

1           Additionally, the court is in need of further supplemental briefing. The parties shall  
2 confer and file a joint statement addressing the following:

- 3           1. Defendants have moved for summary judgment on plaintiffs’ disability discrimination  
4           claims, arguing that plaintiffs failed to exhaust their administrative remedies under the  
5           Individuals with Disabilities Education Act. Between the time of the parties’ briefing and  
6           this order, the U.S. Supreme Court issued an opinion in Perez v Sturgis Public Schools  
7           that appears to foreclose defendants’ argument. 143 S. Ct. 859 (2023). If defendants  
8           concur with the court’s perspective, they shall state as much. If defendants disagree, the  
9           parties shall lay out their opposing arguments in the joint statement.
- 10          2. Defendants have moved for summary judgment on the ADA and § 504 claims as brought  
11          by plaintiff Alicia Wagnon. However, the court had previously noted the scope of these  
12          claims (as alleged in the complaint) appear to have been brought only by plaintiff Sullivan  
13          From. Based on representations made in the prior joint statement (ECF No. 67), the  
14          parties disagree over the scope of these claims, and so requested permission to supplement  
15          their briefing. The parties shall lay out their opposing arguments in the joint statement.

16    **ORDER**

17           Accordingly, it is hereby ORDERED that:

- 18          1. Regarding supplemental briefing, the parties shall confer and file a joint statement on  
19          the issues outlined above. This joint statement is due within 21 days of this order; and
- 20          2. The court construes Judge Delaney’s May 15th minute order and the parties  
21          representations to the courtroom deputy as notice to resume consideration of  
22          defendants’ motion for summary judgment. After the parties submit their  
23          supplemental briefing, defendants’ motion will be taken under submission without  
24          need for a hearing pursuant to Local Rule 230(g).

25       Dated: May 16, 2023

26   *Kendall J. Newman*  
27   \_\_\_\_\_  
28   KENDALL J. NEWMAN  
  UNITED STATES MAGISTRATE JUDGE

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