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7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN FRANCISCO DIVISION**
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11 OLGA ZAMORA, Guardian ad litem for
12 Maria Zamora, and JOSE ZAMORA,
13 Guardian ad litem for Omar Zamora and
14 Edgar Zamora,

15 Plaintiffs,

16 v.

17 CITY OF OAKLAND, ANTHONY BATTS,
18 CITY OF SAN FRANCISCO and GEORGE
19 GASCON,

20 Defendants.

Case No. 12-cv-02734 NC

**ORDER RE: SUPPLEMENTAL
MATERIALS IN OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Re: Dkt. Nos. 31, 33

21 Pending before the Court is a motion for summary judgment filed by defendants City
22 of San Francisco and George Gascon. Dkt. No. 31. The Zamoras have filed an opposition
23 brief that states under Federal Rule of Civil Procedure 56(d) that the Zamoras cannot
24 present facts essential to justify their opposition. Dkt. No. 33 at 7-8. The brief, and
25 attached declaration of attorney James Martinez do not explain (1) how the unavailable
26 facts are "essential" to the opposition; and (2) whether the Zamoras were diligent in
27 pursuing discovery from the moving defendants before the fact discovery deadline in this
28 case. For example, the brief, and attached declaration state that the City of San Francisco
has refused to produce video and audio tapes of the incident, Dkt. Nos. 33 at 8:8-10; 33-1


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MATERIALS

1 ¶ 9, but do not submit any evidence establishing the existence of such materials, the specific
2 response by the City of San Francisco to the request for such materials, or the reason why
3 the Zamoras did not move to compel this discovery.

4 Accordingly, by July 30, 2013, the Zamoras may file a supplemental declaration,
5 which may be accompanied by attachments, seeking to establish that the unavailable facts
6 are essential and that they were diligent in pursuing this essential discovery.

7 IT IS SO ORDERED.

8 Date: July 23, 2013

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11 Nathanael M. Cousins
12 United States Magistrate Judge
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