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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
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9 REZN8 SYSTEMS, INC., et al.,

10 Plaintiffs,

No. C 10-1799 PJH

11 v.

ORDER

12 EDMUND BROWN, et al.,

13 Defendants.
14 _____/

15 Plaintiffs filed the complaint in the above-entitled action on April 27, 2010, and also
16 filed an application for a temporary restraining order ("TRO") and a request for an order to
17 show cause re preliminary injunction. On May 12, 2010, the court denied the application
18 for the TRO and the request for the order to show cause. Also on May 12, 2010, plaintiffs
19 filed a notice of appeal of the order denying the TRO application. On May 19, 2010, the
20 Ninth Circuit issued an order directing plaintiffs to voluntarily dismiss the appeal or show
21 cause why it should not be dismissed for lack of subject matter jurisdiction.

22 On May 25, 2010, defendants filed a motion with this court, seeking an order
23 dismissing the complaint. The motion is presently noticed for hearing on June 30, 2010.
24 Plaintiffs' opposition to the motion was due on June 9, 2010. Rather than filing an
25 opposition to defendants' motion, however, plaintiffs filed a first amended complaint on
26 June 11, 2010. Defendants' reply to the opposition was due on June 16, 2010, but none
27 was filed.

28 The court has not reviewed defendants' motion, and thus makes no finding as to

1 whether the first amended complaint resolves the issues raised by defendants. The court
2 finds, however, that the interests of judicial economy will be better served if defendants
3 immediately withdraw the motion, and respond instead to the first amended complaint, by
4 filing responsive pleadings or motions to dismiss no later than 14 days after the Ninth
5 Circuit determines whether it has subject matter jurisdiction to consider plaintiffs' appeal of
6 the order denying the TRO application.

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8 **IT IS SO ORDERED.**

9 Dated: June 17, 2010



PHYLLIS J. HAMILTON
United States District Judge

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