

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

B & L PRODUCTIONS, INC., d/b/a
CROSSROADS OF THE WEST, et al.,
Plaintiffs,
v.
22nd DISTRICT AGRICULTURAL
ASSOCIATION, et al.,
Defendants.

Case No.: 3:19-cv-0134-CAB-NLS
**SUPPLEMENTAL BRIEFING
SCHEDULE**

In their opposition to Defendants’ motion to dismiss, Plaintiffs ask the Court to convert the motion to a motion for summary judgment and to treat Plaintiffs’ opposition as a cross-motion for summary judgment. In their reply, Defendants oppose Plaintiffs’ request, arguing that they have not had the opportunity to conduct discovery. Upon review of the papers, however, it is not clear what discovery Defendants needs, and Defendants provide no specifics. Moreover, it appears from the papers that most or all of the relevant evidence is in the public record or in Defendants’ possession, and that the material facts are undisputed. Thus, because in a First Amendment case, “plaintiffs have a special interest in obtaining a prompt adjudication of their rights,” *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 563 (2011), the Court is inclined to adopt Plaintiffs’ proposal to treat Defendants’ motion and Plaintiffs’ opposition as cross-motions for summary judgment. Before doing so, however, the Court would like additional briefing on the issue and to give Defendants

1 the opportunity to file a substantive opposition to what would be Plaintiffs' cross-motion
2 for summary judgment. Accordingly, it is hereby **ORDERED** as follows:

- 3 1. On or before **May 30, 2019**, Defendants shall file a brief opposing summary
4 judgment in favor of Plaintiffs. The brief shall comply with all rules applicable
5 to an opposition to a summary judgment motion and may include a declaration
6 pursuant to Federal Rule of Civil Procedure 56(d) identifying what essential facts
7 Defendants are unable to present; and
- 8 2. On or before **June 7, 2019**, Plaintiffs shall file a reply brief not exceeding ten
9 pages.

10 The parties also should be prepared to discuss the facts, as well as the propriety of
11 treating the briefing as cross-motions for summary judgment, at the hearing on June 17,
12 2019.

13 It is **SO ORDERED**.

14 Dated: May 16, 2019



15
16 Hon. Cathy Ann Bencivengo
17 United States District Judge
18
19
20
21
22
23
24
25
26
27
28