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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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10 Frank Estrada and Carman Estrada,)
husband and wife; and Othon Luna and)
11 Estella Luna, husband and wife,)
12)
Plaintiffs,)

Consolidated Actions
No. CV-07-1071-PHX-DGC (Lead Case)
No. CV-08-0945-PHX-DGC (Member Case)

13 vs.)

ORDER

14 City of San Luis; Rafael Torres;)
Rural/Metro Fire Department Inc.;)
15 Rural/Metro Protection Services, Inc.;)
and Rural/Metro (Delaware) Corporation)
16 (FN),)
17)
Defendants.)

18 _____)
19 Frank Estrada and Carman Estrada,)
husband and wife; and Othon Luna and)
20 Estella Luna, husband and wife,)
21)
Plaintiffs,)

22 vs.)

23 City of San Luis; Rural/Metro Fire)
Department Inc.; Rural/Metro Protection)
24 Services, Inc.; Rural/Metro (Delaware))
Corporation (FN); Rafael Torres; Juan)
25 Carlos Escamilla; Lee Maness; and)
Gabriel Jimenez,)
26)
Defendants.)

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1 On May 29, 2007, Plaintiffs commenced an action in this Court against the City of
2 San Luis, Rafael Torres, and various Rural/Metro entities (Case No. CV-07-1071-PHX-
3 DGC) (“First Action”). Nearly a year later, on May 19, 2008, Plaintiff filed another action
4 in this Court against the defendants named in the First Action and three other defendants
5 (Case No. CV-08-0945-PHX-ROS) (“Second Action”). The actions have been consolidated.
6 Dkt. #22 (CV-08-0945); Dkt. #89 (CV-07-1071).

7 In an order dated November 15, 2007, the Court dismissed all claims asserted against
8 Rural/Metro in the First Action based on Noerr-Pennington immunity. Dkt. #45 (CV-07-
9 1071). Rural Metro has filed a motion to dismiss the Second Action as an impermissible
10 attack on the Court’s order of dismissal in the First Action. Dkt. #25 (CV-08-0945).
11 Plaintiffs have not filed a response to the motion, and the time for doing so has expired. *See*
12 LRCiv 7.2(c).

13 The Court already has dismissed the Second Action as impermissibly duplicative of
14 the First Action. Dkt. #23 (CV-08-0945); Dkt. #90 (CV-07-1071). The Court therefore will
15 deny Rural/Metro’s motion to dismiss the Second Action as moot.

16 **IT IS ORDERED** that the Rural/Metro Defendants’ motion to dismiss complaint in
17 CV-08-0945 (Dkt. #25) is **denied** as moot.

18 DATED this 9th day of September, 2008.

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David G. Campbell
United States District Judge