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5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
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8 **MICHAEL IOANE, et al,**

9 **Plaintiffs**

10 **v.**

11 **KENT SPJUTE, et al,**

12 **Defendants**
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CASE NO. 1:07-CV-0620 AWI EPG

**ORDER DISMISSING PLAINTIFF
SHELLY IOANE'S CLAIMS AGAINST
DEFENDANTS BRIAN APPLIGATE
AND JEFFREY HODGE FOR LACK OF
PROSECUTION**

15 The trial on Plaintiffs' excessive force claims against Defendants was set to start on
16 September 7, 2016. On September 6, 2016, both Plaintiffs filed separate motions to continue trial.
17 See Docs. 445 and 450. Both motions were denied. Doc. 452. Shelly Ioane was reached by
18 telephone on September 6 and told that trial would begin as scheduled on September 7. At the
19 scheduled time for the commencement of trial, Michael Ioane Sr. was present but Shelly Ioane
20 was not. As stated on the record on September 7, 2016, Shelly Ioane has failed to prosecute this
21 case. Her claims against Defendants that were to be adjudicated in this trial must be dismissed.

22 Judgment is granted in favor of Brian Applegate and Jeffrey Hodge on Shelly Ioane's
23 excessive force claims.

24 IT IS SO ORDERED.

25 Dated: September 9, 2016

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27 **SENIOR DISTRICT JUDGE**
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