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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

S.A. a minor by and through her parents,  
and guardian ad litem, L.A. and M.A.

CASE NO. CV F 08-1215 LJO GSA

Plaintiff,

**ORDER ON TULARE COUNTY OFFICE OF  
EDUCATION’S F.R.Civ.P. 12(b) MOTION  
(Doc. 28)**

vs.

TULARE COUNTY OFFICE OF  
EDUCATION and CALIFORNIA  
DEPARTMENT OF EDUCATION,

Defendants.

\_\_\_\_\_ /

This Court issued its January 5, 2009 order (“order”) to deny what it understood was defendants California Department of Education (“CDE”) and Tulare County Office of Education’s (“Tulare Education’s”) combined F.R.Civ.P. 12 motion. Based on the F.R.Civ.P. 12 motion moving and reply papers and the docket, this Court understood that CDE and Tulare Education were represented by the same counsel. On January 5, 2009, Tulare Education filed its separate F.R.Civ.P. 12 motion through its counsel. This Court became aware of Tulare Education’s motion after it executed the order.

Tulare Education’s F.R.Civ.P. 12 motion raises nearly identical challenges to plaintiff’s operative first amended complaint (“FAC”). The order addressed and ruled on the challenges to the FAC to render moot Tulare Education’s F.R.Civ.P. 12 motion. Tulare Education’s limited additional or differing points raise no need to revisit the order and this Court’s rulings. As such, this Court DENIES as moot Tulare Education’s F.R.Civ.P. 12 motion. The order remains in effect, including Tulare Education’s requirement to file and serve an answer to the FAC no later than January 16, 2009.

IT IS SO ORDERED.

**Dated: January 6, 2009**

**/s/ Lawrence J. O'Neill**  
UNITED STATES DISTRICT JUDGE