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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DARNELL ARCHER et al.,)	Case No.: 1:12-cv-00261 LJO JLT
Plaintiffs,)	
v.)	ORDER STRIKING SECOND AMENDED
)	COMPLAINT
CITY OF TAFT, et al.)	(Doc.13)
Defendants.)	
)	
)	

I. Background

Plaintiffs filed their original complaint on February 23, 2012. (Doc. 1) The Court screened the complaint and dismissed it with leave to amend. (Doc. 3) On May 15, 2012, Plaintiffs filed their first amended complaint. (Doc. 4) Again, the Court screened this complaint and found cognizable claims but determined that claims had not been stated against some defendants, including the City of Taft, and finding that several causes of action were not viable. (Doc. 5) The Court ordered Plaintiffs to notify if they wished to proceed only on these claims deemed cognizable and only against the remaining defendants or to file a second amended complaint. Id.

On August 11, 2012, Plaintiffs notified the Court that they wished to proceed only on the cognizable claims and only as to the remaining defendants. (Doc. 6) Plaintiffs wrote, "Plaintiffs in this case have decided to follow the directive in [the August 1, 2012] order and are notifying this court of our willingness to proceed only on those claims deemed cognizable by this court and against

1 Defendants: Jill Gipson, Joseph Burke and J.E. Burke Construction.” Id. On September 12, 2012, the
2 Court adopted the findings and recommendations and dismissed all claim except for those brought
3 under the Fourth and Fourteenth Amendments and dismissing all defendants except Jill Gipson, Joseph
4 Burke and J.E. Burke Construction. (Doc. 12) In addition, the Court issued summonses and authorized
5 service of the first amended complaint to these defendants. (Docs. 7-10) Nevertheless, the next day,
6 Plaintiffs filed a second amended complaint which, seemingly, added the City of Taft as a defendant to
7 the action. (Doc. 13 at 5-6, 8)

8 **II. Plaintiffs are not entitled to file an amendment as of right**

9 As noted above, the Court screened Plaintiffs complaints twice and allowed them to file
10 amended complaints if they chose or to proceed on the claims and as to the defendants deemed viable.
11 (Docs. 3, 7) Despite electing to proceed on the first amended complaint (Doc. 6) and the despite the
12 Court taking action to have the first amended complaint served, Plaintiffs then filed a second amended
13 complaint without first seeking leave of the Court. Thus, the Court orders the second amended
14 complaint (Doc. 13) **STRICKEN** and deems the answer filed by Jill Gipson to be to the first amended
15 complaint.

16 **ORDER**

17 Based upon the foregoing, the Court **ORDERS**:

- 18 1. The second amended complaint (Doc. 13) is **STRICKEN**;
- 19 2. The answer filed by Jill Gipson (Doc. 17) is deemed responsive to the first amended
20 complaint.

21
22 IT IS SO ORDERED.

23 Dated: April 17, 2014

/s/ Jennifer L. Thurston
24 UNITED STATES MAGISTRATE JUDGE