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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SAMANTHA RASCON,
Plaintiff,
v.
UNITED STATES OF AMERICA,
Defendant.

Case No. 1:18-cv-00711-AWI-SAB
ORDER RE NOTICE OF SUBSTITUTION
OF DEFENDANT AND DIRECTING
OFFICE OF THE CLERK TO
ADMINISTRATIVELY TERMINATE
FAMILY HEALTHCARE NETWORK
(ECF No. 2)

On December 6, 2017, Plaintiff Samantha Rascon filed this action in the Tulare County Superior Court against the Kaweah Delta Health Care District and the Family Healthcare Network. (ECF No. 1 at 4-8.) On May 24, 2018, the United States of America removed this action to the Eastern District of California and filed a notice of substitution for the Family Healthcare Network. (ECF Nos. 1, 3.)

Pursuant to 28 U.S.C. § 2679, the exclusive remedy against an employee working in the scope of his employment is against the United States. As relevant here, a non-profit private entity receiving federal funds shall be deemed to be an employee of the Public Health Service and the exclusive remedy shall be against the United States. 42 U.S.C. 233(g)(1)(A). “Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an

1 action against the United States under the provisions of this title and all references thereto, and
2 the United States shall be substituted as the party defendant.” 28 U.S.C. § 2679(d)(1).

3 The Court notes that currently the docket in this action lists Kaweah Delta Health Care
4 District as a defendant. However, the Court takes judicial notice of Rascon v. Kaweah Delta
5 Health Care District, VCU272009 (Tulare County Superior Court),
6 <https://efiling.tulare.courts.ca.gov/?q=node/364/1446115/FV-Documents-Portal>. Although the
7 notice of removal was filed on November 25, 2018, case management statements were filed on
8 May 31, 2018 and June 4, 2018 by Plaintiff and Kaweah Delta Health Care District. In their
9 joint scheduling report, the parties shall address the status of Kaweah Delta Health Care District
10 as it pertains to this action.

11 Accordingly, this action is proceeding against the United States of America and the
12 Office of the Clerk is DIRECTED to terminate Family Health Network as a defendant in this
13 action.

14
15 IT IS SO ORDERED.

16 Dated: July 9, 2018


UNITED STATES MAGISTRATE JUDGE