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

KATHLYN A. RHODES,  
Plaintiff,

2:09-cv-0489-MCE-KJN-PS

v.

PLACER COUNTY, et al.,  
Defendants.

FINDINGS & RECOMMENDATIONS

\_\_\_\_\_ /  
This matter came on for a status (pretrial scheduling) conference on May 19, 2011. Plaintiff Kathlyn Rhodes (“plaintiff”) is a licensed attorney bringing this action in propria persona.<sup>1</sup>

Plaintiff attended the status conference on her own behalf. Attorney David Huskey attended on behalf of Placer County and the Placer County defendants Edward N. Bonner, Mike Seipert, and Cheryl Hamilton. Attorney Robert Tyler attended on behalf of defendants Drs. David Fakhri and Sonja M. Jackson. Attorney Amie McTavish attended on behalf of the City of Rocklin and the City of Rocklin defendants Thomas Platina, Susan Davis,

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<sup>1</sup> This action proceeds before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1), and was reassigned by an order entered February 9, 2010. (Dkt. No. 36.)

1 Darrell Jantz, Jennifer Collins, Mark Siemens, and Carlos Urrutia. Attorney Patrick Stokes  
2 attended on behalf of American Medical Response. Attorney Jerome Varanini attended on behalf  
3 of California Forensic Medical Group (“CFMG”) and the CFMG defendants Dr. Taylor Fithian,  
4 Elaine Hustedt, and Don Hustedt. Attorney David Wallis attended on behalf of Choice Hotels  
5 International Inc., d/b/a Comfort Suites; Sac City Lodging Partners, LLC d/b/a Comfort Suites,  
6 Myrna Yao, and Eva Cooper. Defendants Sacramento County (sued herein as Sacramento  
7 County Mental Health Treatment Center (“SCMHTC”)) and Director Dorian Kittrell did not  
8 appear. Defendant Frank Patino did not appear.

9           In an order dated May 4, 2011, the court adopted the Findings and  
10 Recommendations dismissing various claims against Sacramento County/SCMHTC and Dorian  
11 Kittrell. (Dkt. No. 126.) While various claims against these defendants have been dismissed,  
12 however, there has not been a formal request to dismiss Sacramento County/SCMHTC and  
13 Dorian Kittrell from this case for all purposes, and no order clearly dismisses these defendants  
14 from the action.

15           During the status conference, plaintiff confirmed that the court’s order dated May  
16 4, 2011, dismissed various claims against Sacramento County/SCMHTC and Dorian Kittrell.  
17 Plaintiff confirmed that there was no reason an order should not issue clarifying that these  
18 defendants are dismissed from this action and may be removed from the service lists. Also  
19 during the status conference, the undersigned asked defense counsel whether any defendant  
20 would object to such an order. No objections were made.

21           Also during the status conference, the undersigned noted that plaintiff’s pleading  
22 alleges that defendant Frank Patino is either an employee of SCMHTC or CFMG. The  
23 undersigned asked plaintiff whether the dismissal of SCMHTC from this action also warranted  
24 dismissal of Mr. Patino. Plaintiff stated that while she was unsure whether Mr. Patino was an  
25 employee of SCMHTC or CFMG, she would stipulate to the dismissal of Mr. Patino from this  
26 action.

1 Accordingly, for all the foregoing reasons, it is hereby RECOMMENDED that:

2 1. Pursuant to the substance of the court's order dated May 4, 2011 (Dkt. No.  
3 126) and all parties' stipulation on the record during the status conference on May 19, 2011,  
4 defendants Sacramento County/SCMHT, Dorian Kittrell, and Frank Patino be dismissed from  
5 this action with prejudice.

6 These findings and recommendations are submitted to the United States District  
7 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen  
8 days after being served with these findings and recommendations, any party may file written  
9 objections with the court and serve a copy on all parties. Id.; see also E. Dist. Local Rule 304(b).  
10 Such a document should be captioned "Objections to Magistrate Judge's Findings and  
11 Recommendations." Any response to the objections shall be filed with the court and served on  
12 all parties within fourteen days after service of the objections. E. Dist. Local Rule 304(d).  
13 Failure to file objections within the specified time may waive the right to appeal the District  
14 Court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d  
15 1153, 1156-57 (9th Cir. 1991).

16 IT IS SO RECOMMENDED.

17 DATED: May 19, 2011

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20 KENDALL J. NEWMAN  
21 UNITED STATES MAGISTRATE JUDGE  
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