

1 BENJAMIN B. WAGNER  
 United States Attorney  
 2 EDWARD A. OLSEN  
 CHI SOO KIM  
 3 Assistant United States Attorneys  
 501 I Street, Suite 10-100  
 4 Sacramento, CA 95814  
 Telephone: (916) 554-2700  
 5 Facsimile: (916) 554-2900  
 Attorneys for Defendant United States

6  
 7 IN THE UNITED STATES DISTRICT COURT  
 8 EASTERN DISTRICT OF CALIFORNIA


9 TROY GABRIELSON and ALLAN T.  
 BOWEN,  
 10  
 Plaintiffs,  
 11  
 v.  
 12 UNITED STATES OF AMERICA,  
 13  
 Defendant.

**CASE NO. 2:09-CV-00538 MCE-CMK**  
**ORDER SUBSTITUTING UNITED STATES AS PARTY DEFENDANT AND DISMISSING DEFENDANTS DALE MARQUART AND UNITED STATES POSTAL SERVICE**

14  
 15 Defendant Dale E. Marquart was certified as an employee of the United States who was acting  
 16 within the scope of such employment at the time of the alleged incident giving rise to the complaint, and  
 17 so, by operation of law, is entitled to the official immunity of the Federal Tort Claims Act (“FTCA”),  
 18 28 U.S.C. §§ 2671-2680. [Dkt 1-4] The certification effected the substitution of the United States as the  
 19 proper defendant in lieu of Mr. Marquart, who should be dismissed pursuant to his official immunity.  
 20 28 U.S.C. § 2679(d)(1). The United States is the only proper party defendant for FTCA claims.  
 21 28 U.S.C. §§ 1346(b)(1) and 2679(a); *FDIC v. Craft*, 157 F.3d 697, 706 (9th Cir. 1998). Therefore, the  
 22 United States is also substituted as Defendant in lieu of Defendant United States Postal Service.  
 23

24 IT IS SO ORDERED.

25 DATED: June 19, 2013

26  
 27   
 MORRISON C. ENGLAND, JR., CHIEF JUDGE  
 UNITED STATES DISTRICT COURT