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

PETER J.D. CLARK, SR.,

Plaintiff,

No. CIV S-09-1452 GEB DAD PS

vs.

POLICE OFFICER HANN, et al.,

ORDER

Defendants.

_____ /

Defendants Nora Shigomoto (sued as Nora Shigemoto), Kathleen Parks, Annie Cargile (sued as Ms. Annie), and Nicole Romero (sued as Ms. Nicole) have moved to dismiss plaintiff's May 27, 2009 complaint for lack of personal jurisdiction or, in the alternative, to quash service of process for failure to effect proper service of the complaint on the moving defendants. The motion has been properly noticed for hearing before the undersigned on October 30, 2009.

By order filed August 25, 2009, the undersigned granted five motions to dismiss brought by numerous other defendants in this action. (Doc. No. 36.) The undersigned considered plaintiff's motion to amend but found the proposed amended complaint deficient. Plaintiff was granted 45 days to file and serve a First Amended Complaint that complies with the requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of Practice. Plaintiff was instructed to identify in the caption of the amended complaint all

1 defendants against whom he now wishes to proceed. Plaintiff has not yet filed a First Amended
2 Complaint pursuant to the court's order, and the identity of the defendants, if he chooses to
3 proceed with this litigation, is unknown at this time. The pending motion is moot because the
4 May 27, 2009 complaint has been dismissed.

5 If plaintiff proceeds against the four defendants whose motion is the subject of
6 this order, plaintiff shall consider defendants' arguments concerning deficient service of process
7 and shall serve his First Amended Complaint in a manner that will establish the court's personal
8 jurisdiction over the defendants if he did not effect proper service of his original complaint.

9 IT IS HEREBY ORDERED that:

10 1. The motion to dismiss for lack of jurisdiction or, in the alternative, to quash
11 service of process brought by defendants Shigomoto, Parks, Cargile, and Romero, originally filed
12 on September 21 and noticed for hearing before the assigned district judge (Doc. No. 37) and re-
13 filed on September 22, 2009, and noticed for hearing before the undersigned (Doc. No. 39), is
14 denied as moot due to the dismissal of the complaint at issue in the motion. Denial of the motion
15 is without prejudice to renewal if plaintiff names any of these individuals as defendants in a First
16 Amended Complaint and the jurisdictional issue is not resolved by plaintiff's service of the
17 amended pleading.

18 2. Defendants' motion is dropped from the October 30, 2009 calendar.

19 DATED: October 13, 2009.

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22 _____
23 DALE A. DROZD
24 UNITED STATES MAGISTRATE JUDGE

23 DAD:kw
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