

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

KATHRYN ANN KELLEY,)
Plaintiff,) 2:10-cv-00557-GEB-DAD
v.) ORDER
LARRY ALLEN, individually and in)
his capacity as District Attorney)
of Sierra County; SARAH WRIGHT,)
individually and in her capacity)
as employee of the County of)
Sierra; COUNTY OF SIERRA; SIERRA)
COUNTY DISTRICT ATTORNEY'S OFFICE;)
and SIERRA COUNTY SHERIFF'S)
DEPARTMENT,)
Defendants.)

The parties' Joint Status Report filed on July 12, 2010 ("JSR") reveals that this case is not ready to be scheduled, since Plaintiff states in the JSR she "has sought a stipulation from Defendants allowing her to file an Amended Complaint" and that "[s]hould Defendant not so stipulate, Plaintiff will seek leave of the court to amend the Complaint." (JSR 2:12-14.) Plaintiff further states, "If an agreement is reached, an Amended Complaint will be filed forthwith." (*Id.* 2:15-16.)

Based on Plaintiff's representation, Defendants' pending Motion to Dismiss (Docket No. 9) is deemed withdrawn and can be re-noticed for hearing if Plaintiff fails to file a First Amended Complaint as indicated. To hold otherwise risks having the Court spend time on a motion that would become moot after a properly amended complaint is filed.

1 Further, the Status (Pretrial Scheduling) Conference set for
2 July 26, 2010 is continued to October 4, 2010, at 9:00 a.m. A further
3 joint status report shall be filed no later than 14 days prior to the
4 Status Conference.

5 Dated: July 13, 2010

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7 GARLAND E. BURRELL, JR.
8 United States District Judge

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