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

|                                |   |                       |
|--------------------------------|---|-----------------------|
| KATHRYN ANN KELLEY,            | ) |                       |
|                                | ) | 2:10-cv-00557-GEB-DAD |
| Plaintiff,                     | ) |                       |
|                                | ) |                       |
| v.                             | ) | <u>ORDER</u> *        |
|                                | ) |                       |
| LARRY ALLEN, DISTRICT ATTORNEY | ) |                       |
| OF SIERRA COUNTY individually; | ) |                       |
| SARAH WRIGHT, individually and | ) |                       |
| in her capacity as VICTIM      | ) |                       |
| WITNESS ADVOCATE OF THE COUNTY | ) |                       |
| OF SIERRA; and THE COUNTY OF   | ) |                       |
| SIERRA,                        | ) |                       |
|                                | ) |                       |
| Defendants.                    | ) |                       |

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Defendants Larry Allen, Sarah Wright, and The County of Sierra ("Defendants") filed a motion to dismiss Plaintiff's original Complaint on August 25, 2010. (Docket No. 12.) Defendants originally filed a similar dismissal motion on June 11, 2010, but the Court deemed the motion withdrawn since Plaintiff indicated she would file an amended complaint, and stated it could be renoticed for hearing if Plaintiff failed to file a First Amended Complaint as she indicated. (Order July 13, 2010 1:23-26.) Defendants subsequently renoticed the motion, and Plaintiff thereafter filed a First Amended Complaint. (Docket Nos. 12, 13.)

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\* This matter is deemed suitable for decision without oral argument. E.D. Cal. R. 230(g).

1 Plaintiff lacked leave of court to file her amended complaint.  
2 However, Defendants have not contested Plaintiff's attempt to amend her  
3 original Complaint; instead Defendants have stated they intend to file  
4 another motion to dismiss Plaintiff's First Amended Complaint. (Joint  
5 Status Report Sept. 20, 2010 2:11-19.) Therefore, in light of the  
6 congested nature of this Court's law and motion and trial calendars, and  
7 in the interest of avoiding the unnecessary expenditure of judicial  
8 resources and briefing on a motion for leave to amend that does not  
9 appear necessary under the circumstances, Plaintiff's First Amended  
10 Complaint is deemed filed as of the date on which this order is filed.  
11 Accordingly, Defendants' August 25, 2010 dismissal motion is denied as  
12 moot.

13 Dated: September 22, 2010

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GARLAND E. BURRELL, JR.  
United States District Judge