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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 DENNIS ASBURY and DIANE LYON,

No. 2:12-cv-01745-MCE-EFB

12 Plaintiffs,

13 v.

14 GLENN COUNTY OFFICE OF
15 EDUCATION,

16 Defendant.

17 On August 30, 2012, Defendant Glenn County Office of Education filed a Motion
18 to Dismiss, in the Alternative Motion for Summary Judgment. (Def.'s Mot. Dismiss, ECF
19 No. 7.) On January 31, 2013, the Court issued the following minute order:

20 The Court construes Defendants' Motion to Dismiss, in the
21 Alternative Motion for Summary Judgment (ECF No. 7) as a
22 Motion for Summary Judgment because Defendants have
23 submitted materials outside the pleadings in support of their
24 motion and the Court will rely on those materials in ruling on
25 the Motion. See Anderson v. Angelone, 86 F.3d 932, 934
26 (9th Cir. 1996). Plaintiffs have failed to respond to the Motion
for Summary Judgment in accordance with Local Rule
260(b). The Motion is stayed pending completion of
discovery. In the alternative, Defendants may withdraw the
motion without prejudice and renew it following the
completion of discovery.

27 (ECF No. 16.) On the Court's own motion, the above minute order (ECF No. 16) is
28 hereby VACATED.

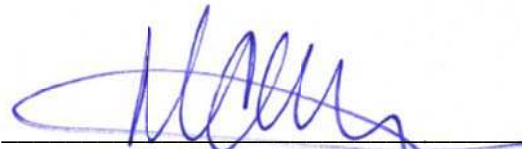
1 The Court now construes Defendants' Motion to Dismiss, in the Alternative Motion
2 for Summary Judgment (ECF No. 7) as a Motion for Summary Judgment because
3 Defendants have submitted materials outside the pleadings in support of their motion
4 and the Court will rely on those materials in ruling on the Motion. See Anderson v.
5 Angelone, 86 F.3d 932, 934 (9th Cir. 1996). Moreover, Plaintiffs have failed to respond
6 to the Motion for Summary Judgment in accordance with Local Rule 260(b).

7 Accordingly, IT IS HEREBY ORDERED THAT:

- 8 1. The Court's prior minute order (ECF No. 16) is VACATED; and
- 9 2. Defendant's Motion for Summary Judgment (ECF No. 7) is DISMISSED
10 WITHOUT PREJUDICE.

11 IT IS SO ORDERED.

12 DATED: April 19, 2013

A handwritten signature in blue ink, appearing to read "Morrison C. England, Jr.", is written over a horizontal line.

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