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8 Attorney for Plaintiff ROCHELLE L. GILLIAM

9 **UNITED STATES DISTRICT COURT**
10 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

11 ROCHELLE L. GILLIAM,
12 Plaintiff,
13
14 v.
15 CITY OF WEST SACRAMENTO,
16 SERGIO ALVAREZ, DAN
17 DRUMMOND, and DOES 1 through 25,
18 Defendants.

Case No.: 2:13-CV-02276-WBS-AC
PLAINTIFF'S STATUS REPORT & [PROPOSED] ORDER
Date: February 18, 2014
Time: 2:00 p.m.
Dept.: 5
Judge: The Hon. William B. Shubb

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21 Plaintiff GILLIAM hereby submits the following Status Report:

22 This Status Report is submitted solely on behalf of Plaintiff GILLIAM, and not jointly on
23 behalf of all parties, because no other party has appeared in this case. All Defendants have been
24 served, and their respected responses are anticipated by March 4, 2014 (discussed in greater detail
25 in section 1, below.) Accordingly, Plaintiff respectfully requests that this Status Hearing be
26 continued for sixty (60) days to allow all parties to appear and participate in both the report and
27 the hearing.
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1 **1. Jurisdiction & Service**

2 The complaint in this matter was originally filed by Plaintiffs on November 1, 2013. The
3 original complaint was served on Defendant CITY OF WEST SACRAMENTO on November 21,
4 2013. As the employer for the remaining two (2) Defendants (both former law enforcement
5 officers), it was anticipated that the CITY OF WEST SACRAMENTO would answer on behalf of
6 all Defendants.

7 At the time of the filing of the original complaint, Plaintiff filed an ex parte application to
8 proceed under the pseudonym JANE DOE. This application was denied and, pursuant to the
9 court's order, Plaintiff filed an amended complaint replacing the pseudonym JANE DOE with her
10 true name – ROCHELLE GILLIAM. In late December, 2013, Plaintiff's counsel spoke with
11 counsel for the Defendants about the status of their response and defense counsel correctly pointed
12 out that the CITY OF WEST SACRAMENTO had not been served with the operative complaint,
13 but merely the original complaint using the pseudonym JANE DOE. Consequently, Plaintiff
14 served the first amended complaint on Defendant CITY OF WEST SACRAMENTO on January
15 14, 2014. Shortly thereafter, counsel for DAN DRUMMOND received authority to waive service
16 and on January 23, 2014, service was waived by Defendant DRUMMOND'S attorney.

17 Simultaneously, separate counsel was retained to represent Defendant ALVAREZ.
18 Defendant ALVAREZ is presently incarcerated and is in the midst of a criminal trial in Yolo
19 County Superior Court involving the same facts that give rise to this lawsuit. The criminal trial of
20 Defendant ALVAREZ began on January 21, 2014, and is anticipated to last another 2-3 weeks.
21 Both the criminal attorney and the civil attorney for Defendant ALVAREZ have been served with
22 the complaint; however, neither have received authority from their client to accept service. While
23 Defendant ALVAREZ is in a courtroom each weekday in Yolo County, the presiding judge will
24 not permit him to be served in this courtroom. Service was attempted in the Yolo County jail;
25 however, Defendant ALVAREZ is being housed out of Yolo County for safety reasons, i.e. he is a
26 former police officer. Defendant ALVAREZ has been located in the Solano County jail and was
27 finally sub-served through the deputies at the jail on February 2, 2014.

1 Plaintiff's counsel has been in frequent communication with Bruce Kilday of the firm
2 Angelo, Kilday & Kilduff who has been retained to represent Defendants CITY OF WEST
3 SACRAMENTO and the former Chief of Police DAN DRUMMOND. Although the CITY OF
4 WEST SACRAMENTO'S answer is due on February 13, Defendant DRUMMOND'S answer is
5 not due until late March, 2014. Mr. Kilday has agreed to split the difference and answer on behalf
6 of both Defendants on the same day that Defendant ALVAREZ is scheduled to answer – March 4,
7 2014.

8 John Lavra of the firm Longyear, O'Dea & Lavra has been retained to represent Defendant
9 SERGIO ALVAREZ.

10 This matter was filed in Federal Court based on subject matter jurisdiction, pursuant to 28
11 U.S.C. §1331 and 42 U.S.C. §1983.

12 **2. Facts**

13 On September 23, 2012, Plaintiff was walking on a sidewalk in the City of West
14 Sacramento when she was stopped by Defendant/Officer ALVAREZ in his marked police vehicle,
15 while wearing his police uniform. Defendant/Officer ALVAREZ frisked Plaintiff and found
16 nothing, nevertheless he threatened to arrest Plaintiff and make up a charge to justify her arrest.
17 Defendant/Officer ALVAREZ then handcuffed Plaintiff, placed her under arrest, and forced her
18 into the back of his police vehicle.

19 Defendant/Officer ALVAREZ drove Plaintiff in his police vehicle to an isolated parking
20 lot, in the City of West Sacramento, where he forced Plaintiff to commit sexual acts against her
21 will. At all times, Defendant/Officer ALVAREZ was employed by Defendant CITY OF WEST
22 SACRAMENTO and was under the supervision of Defendant/Police Chief DAN DRUMMOND.

23 **3. Legal Issues**

24 Plaintiff has alleged assault, battery, false arrest, false imprisonment, violations of her civil
25 rights as well as negligent supervision by the Defendants CITY OF WEST SACRAMENTO and
26 DRUMMOND.

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4. Motions

There are no pending motions at this time.

5. Amendment of Pleadings

Plaintiff does not anticipate amending the complaint at this time and Defendants are expected to respond by March 4, 2014.

6. Discovery

Discovery will begin as soon as the Defendants file their respective appearances.

7. Related Cases

The Court has already determined that the case of Wilson v. The City of West Sacramento, et al, case no. 2:13-CV-02550-KJM-EFB, is related.

8. Trial

Defendant ALVAREZ is presently standing trial on a criminal matter that will likely determine whether liability is disputed. If Defendant ALVAREZ is convicted of sexually assaulting Plaintiff, the trial of this matter will likely be 1-2 weeks. If Defendant ALVAREZ is not convicted, and liability is disputed, the trial will probably be closer to 3 weeks.

Dated: February 4, 2014

THE ASHWORTH LAW OFFICE

/s/ James C. Ashworth
JAMES C. ASHWORTH
Attorney for Plaintiff


ORDER

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The above Scheduling Conference is continued to **April 28, 2014 at 2:00 p.m.** A Joint Status Report shall be filed no later than **April 14, 2014.**

IT IS SO ORDERED

Dated: February 7, 2014



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE