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United States District Court
For the Northern District of California

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

GRACE E. LA,
Plaintiff,

v.

ANDRA LEONARD ALLEN, et al.,
Defendants

No. C-08-5230 MMC

**ORDER RE: PLAINTIFF’S REQUEST
FOR CLARIFICATION**

On June 19, 2008, while the instant action was pending in the Southern District of California, defendants filed their “Motion to Dismiss for Lack of Venue or in the Alternative to Transfer Venue, Motion to Dismiss for Failure to State a Claim and Motion to Strike.” By order filed November 14, 2008, the Southern District of California addressed the portion of defendants’ motion pertaining to venue by transferring the instant action to this district. Thereafter, on December 16, 2008, defendants sought clarification as to the procedure to be followed with respect to the unresolved portion of their motion, specifically, defendant’s motion to dismiss five of plaintiff’s claims for failure to state a claim.¹ By order filed December 18, 2008, the Court, observing that the motion had been fully briefed while the matter was pending in the Southern District, directed defendants to renote the motion for hearing after the parties had conferred and selected a mutually agreeable date.

¹The motion, contrary to its title, does not include a motion to strike.

1 Thereafter, defendants renoticed their motion for hearing on February 27, 2009.

2 Now before the Court is plaintiff's "Request for Clarification Re: Motion to Dismiss for
3 Lack of Venue or in the Alternative to Transfer Venue, Motion to Dismiss for Failure to
4 State a Claim and Motion to Strike," filed January 12, 2009. By said request, plaintiff seeks
5 confirmation that the only matter before this Court is whether any of the five claims
6 challenged by defendant should be dismissed for failure to state a claim, and not the issue
7 of venue. Defendants have not filed a response to said request.

8 Having read and considered plaintiff's request, the Court provides the following
9 clarification. Because the issue of the propriety of venue has been decided by the
10 Southern District of California, the only pending issue presented by defendants' motion is
11 whether defendants have demonstrated that any of the five claims challenged thereby
12 should be dismissed for failure to state a claim.

13 **IT IS SO ORDERED.**

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15 Dated: January 21, 2009

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MAXINE M. CHESNEY
United States District Judge