

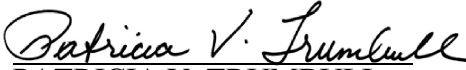
1 of Record.”¹ On April 27, 2009, Plaintiff’s counsel John N. Kitta filed a Stipulation and proposed
2 Order in which the parties requested the Case Management Conference be continued an additional
3 60 days. The court granted the requested continuance, setting a deadline of June 30, 2009 for the
4 parties to file their Joint Case Management Conference Statement. No such statement was filed by
5 the parties. Upon inquiry by the court, on July 6, 2009, Plaintiff’s counsel John Kitta filed a
6 declaration and a separate Case Management Conference Statement from which it appears that:
7 1) Plaintiff Jeanne Tapia is *not* deceased, but instead is the heir to someone named Daniel Tapia
8 (who has never been a party to this action); 2) it is Daniel Tapia’s claims, and *not* any claims of
9 Jeanne Tapia, that were alleged in this action; and 3) the proper Defendant is the Gilroy Unified
10 School District, *not* the Santa Clara Unified School District.

11 On May 11, 2009, Daniel Tapia amended his complaint against the Newark Unified School
12 District, Northern District of California Case No. C08-3107 SI to add the Gilroy Unified School
13 District.

14 Based on the entire file herein and in Case No. C08-3107 SI ,
15 IT IS HEREBY ORDERED that, no later than July 21, 2009, Plaintiff’s counsel shall file a
16 declaration showing cause, if any, why this action should not be dismissed. From John Kitta’s
17 declaration and the most recent Case Management Conference Statement, along with the file in Case
18 No. C08-3107 SI, it appears that this case is entirely duplicative of Case No. C08-3107 SI.

19 IT IS FURTHER ORDERED that the Case Management Conference scheduled for July 7,
20 2009, is hereby VACATED.

21 Dated: 7/7/09

22 
23 PATRICIA V. TRUMBULL
24 United States Magistrate Judge

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 ¹ This “notice” had no effect because the court never issued an order permitting such withdrawal.