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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JEANNE TAPIA,	)	Case No.: C 08-3108 PVT
	)	
Plaintiff,	)	<b>ORDER DISMISSING DUPLICATE</b>
	)	<b>CASE</b>
v.	)	
	)	
SANTA CLARA UNIFIED SCHOOL	)	
DISTRICT,	)	
	)	
Defendant.	)	
_____	)	

This case was filed on June 26, 2008, naming the Newark Unified School District as the Defendant. On October 28, 2008, Plaintiff filed an amended complaint, substituting in the Santa Clara Unified School District as the Defendant. On November 7, 2008, Plaintiff filed a proof of service stating that the summons and amended complaint were served on Defendant Santa Clara Unified School District on November 6, 2008. On January 29, 2009, Plaintiff’s counsel Charles Williams filed a Case Management Conference Statement on behalf of Plaintiff Jeanne Tapia (whom he indicated was now deceased) in which he requested a 60 day continuance in order to review documentary evidence that the matter is being litigated on behalf of Plaintiff’s estate by such person or persons lawfully authorized and willing to do so. The court granted the continuance. On April 13, 2009, attorney Sharon Glenn Pratt filed a document entitled “Notice of Withdrawal of Attorney

1 of Record.”<sup>1</sup> 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 as a Defendant.

14 On July 7, 2009, this court issued an order to Plaintiff to show cause by July 21, 2009, why  
15 this action should not be dismissed, as it appears it is entirely duplicative of Case No. C08-3107 SI.  
16 No response to the order to show cause has been filed.

17 Therefore, based on the entire file herein and in Case No. C08-3107 SI,  
18 IT IS HEREBY ORDERED that this case be DISMISSED without prejudice.

19 Dated: 8/10/09

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21 PATRICIA V. TRUMBULL  
22 United States Magistrate Judge  
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28 <sup>1</sup> This “notice” had no effect because the court never issued an order permitting such  
withdrawal.