

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

Crystal Poitra, )  
)  
Plaintiff, )  
)  
vs. )  
)  
Quentin Burdick Memorial Health Care )  
Facility; Patricia Henry, M.D.; Pamela )  
Kidd, M.D.; and Richard Larson, M.D., )  
)  
Defendants. )

**ORDER**

Case No. 4:09-cv-048

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On September 9, 2009, the United States, on behalf of the Defendants, filed a Motion to Set Deadline to Respond to Complaint. Additionally, it filed a Motions to Substitute Parties and Dismiss Defendants Henry, Kidd, and Larson on the grounds that they are employees of the Government under 28 U.S.C. § 2671 and therefore not proper parties to this action.

Pursuant to 28 U.S.C. § 2679(b)(1) and (d), federal employees acting within the scope of their employment enjoy immunity from liability for civil actions seeking money damages for personal injury or loss of property. 28 U.S.C. § 2679 (d)(1) instructs:

Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an action against the United State under the provisions of this title and all references hereto, and the United States shall be substituted as the party defendant.

The United States has certified that Drs. Henry, Kidd, and Larson were acting within the scope of their of their employment with the Department of Health and Human Services/Indian Health Services. Accordingly, the court **GRANTS** the United States' to Motions to Substitute Parties and

Dismiss Defendants Henry, Kidd, and Larson (Docket No. 5). The United States shall be substituted as the party defendant. The court further **GRANTS** the United States' Motion to Set Deadline to Respond to Complaint (Docket No. 4). The United States shall have until November 2, 2009, to file a response to Plaintiff's complaint.

**IT IS SO ORDERED.**

Dated this 21st day of September, 2009.

/s/ Charles S. Miller, Jr. \_\_\_\_\_  
Charles S. Miller, Jr.  
United States Magistrate Judge