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

JAMES ROTHERY, Esq.; ANDREA
HOFFMAN,

Case No. 2:08-cv-02064-JAM-KJM

Minute Order

Plaintiffs,

v.

Former Sheriff LOU BLANAS;
SHERIFF JOHN MCGINNISS;
Detective TIM SHEEHAN;
Detective FRED MASON;
SACRAMENTO COUNTY SHERIFF'S
DEPARTMENT, an independent
branch of government of the
COUNTY OF SACRAMENTO; COUNTY OF
SACRAMENTO; STATE OF CALIFORNIA
ATTORNEY GENERAL JERRY BROWN;
DOES 1 through 25, unknown co-
conspirators; ATTORNEY GENERAL
MICHAEL B. MUKASEY

Defendants.

Because Plaintiffs James Rothery and Andrea Hoffman have
filed an Amended Complaint (Docket # 24), Defendants County of
Sacramento, former Sheriff Lou Blanas, Sheriff John McGinnis,

1 Detective Tim Sheehan and Detective Fred Mason's Rule 12 Motions
2 to Dismiss, to Strike, and for a More Definite Statement (Docket
3 # 17) are moot. For the same reason, Defendant Attorney General
4 Jerry Brown's Motion to Dismiss (Docket # 18) is moot.
5

6 Under Federal Rule of Civil Procedure 15(a), "a party may
7 amend its pleading once as a matter of course at any time before
8 a responsive pleading is served." Fed.R.Civ.P. 15(a). "A
9 motion to dismiss is not a 'responsive pleading' within the
10 meaning of the Rule." Doe v. United States, 58 F.3d 494, 496-97
11 (9th Cir. 1986).
12

13 Here, while Defendants have filed Motions to Dismiss, a
14 Motion to Strike, and a Motion for a More Definite Statement, no
15 party has filed a "responsive pleading" pursuant to Rule 15(a).
16 Thus, Plaintiffs may amend their Complaint as a matter of
17 course. Accordingly, the Court treats Plaintiffs' Amended
18 Complaint filed on May 1, 2009 (Doc. # 24) as the operative
19 Complaint for the case. In light of Plaintiffs' Amended
20 Complaint, the Court DENIES Defendants' Motions to Dismiss,
21 Motion to Strike, and Motion for a More Definite Statement as
22 moot.
23
24

25 IT IS SO ORDERED.

26 Dated: May 11, 2009

27 
28 JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE