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APR 08 2020

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY  DEPUTY CLERK

Michael Postle
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In pro per

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VERONICA BRILL; KASEY LYN
MILLS; MARC GOONE; NAVROOP
SHERGILL; JASON SCOTT; AZAAN
NAGRA; ELI JAMES; PHUONG
PHAN; JEFFREY SLUZINKI; HARLAN
KARNOFSKY; NATHAN PELKEY;
MATT HOLTZCLAW; JON TUROVITZ;
ROBERT YOUNG; BLAKE ALEXANDER
KRAFT; JAMAN YONN BURTON;
MICHAEL ROJAS; HAWNLAY SWEN;
THOMAS MORRIS III; PAUL
LOPEZ; ROLANDO CAO; BENJAMIN
JACKSON; HUNG SAM; COREY
CASPERS; ADAM DUONG,

Plaintiffs,

v.

MICHAEL L. POSTLE; KING'S
CASINO, LLC D/B/A STONES
GAMBLING HALL; JUSTIN F.
KURAITIS; JOHN DOES 1-10;
JANE DOES 1-10,

Defendants.

No. 2:19-CV-02027-WBS *AC*

**STATEMENT OF POSITION AND NOTICE
OF WITHDRAWAL OF DEFENDANT
MICHAEL POSTLE'S MOTION TO
DISMISS (ECF 38)**

Date: May 4, 2020
Time: 1:30 pm
Courtroom: 5, 14th Floor
Judge: Hon. William B. Shubb

Defendant Michael Postle submits this Statement of Position
and Notice of Withdrawal regarding his previously filed Motion to
Dismiss (ECF 38). As the Ninth Circuit Court of Appeals has
observed, "It is well-settled in our circuit that an 'amended
Defendant Postle's Statement
of Position & Notice to
Withdraw Motion to Dismiss

1 complaint' supersedes the original, the latter being threatened
2 thereafter as non-existent.'" *Ramirez v. County of San*
3 *Bernadino*, 806 F.3d 1002, 1008 (9th Cir. 2015) (citations
4 omitted). As *Ramirez* states, with the filing of the amended
5 complaint, the earlier complaint "ceased to exist" and a
6 previously-filed motion to dismiss that complaint is "deemed
7 moot." *Id.*

8 Accordingly, defendant Postle understands that ECF 38 is
9 moot as a result of Plaintiffs filing a First Amended Complaint
10 (ECF 40) within the time called for the Federal Rule of Civil
11 Procedure 15(a)(1). Lest there be any doubt, defendant Postle
12 withdraws his Motion to Dismiss (ECF 38).

13 Defendant Postle's response to the First Amended Complaint
14 is due April 8, 2020 and Postle presently intends to file a
15 Motion to Dismiss the First Amended Complaint.

16 Respectfully submitted,

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18
19 Date: April 8, 2020

20 
MICHAEL POSTLE

21 In pro per
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PROOF OF SERVICE

I, Rose Postle, declare:

I am a citizen of the United States and live in the City and County of Sacramento, CA. I am over the age of 18 and not a party to the within action; my address is 2219 Catherwood Way, Sacramento, CA 95835.

On April 8, 2020, I served the following document(s) described as:

STATEMENT OF POSITION AND NOTICE OF WITHDRAWAL OF DEFENDANT MICHAEL POSTLE'S MOTION TO DISMISS (ECF 38)

BY FACSIMILE TRANSMISSION: As follows: The papers have been transmitted to a facsimile machine by the person on whom it is served at the facsimile machine telephone number as last given by that person on any document which he or she has filed in the cause and served on the party making the service. The copy of the notice or other paper served by facsimile transmission shall bear a notation of the date and place of transmission and the facsimile telephone number to which transmitted or be accompanied by an unsigned copy of the affidavit or certificate of transmission which shall contain the facsimile telephone number to which the notice of other paper was transmitted to the addressee(s).

BY MAIL: As follows: I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at San Francisco, CA, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY OVERNIGHT MAIL: As follows: I am readily familiar with the firm's practice of collection and processing correspondence for overnight mailing. Under that practice, it would be deposited with overnight mail on that same day prepaid at San Francisco, CA in the ordinary course of business.

X BY ELECTRONIC MAIL TRANSMISSION: By electronic mail transmission from rosepostle82@gmail.com on April 8, 2020, by transmitting a PDF format copy of such document(s) to:

Michael Lipman at mllipman@duanemorris.com
(Lead Attorney for Defendant King's Casino, LLC);

Maurice VerStandig at mac@mbvesq.com
(Lead Attorney for Plaintiffs, Pro Hac Vice); and

Richard Pachter at richard@pachterlaw.com
(Lead Attorney for Defendant Justin Kuraitis).

The document(s) was/were transmitted by electronic transmission and such transmission was reported as complete and without error.

Executed on April 8, 2020, 2020 at Sacramento, CA.

Rose Pastle

Name: Rose Postle