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

THOMAS CAVNER,

Plaintiff,

vs.

ERICA WEINSTEIN, et al.,

Defendants.

1:07-cv-00184-GSA-PC

ORDER VACATING TRIAL

ORDER FOR PLAINTIFF TO SHOW CAUSE
WHY THIS CASE SHOULD NOT BE
DISMISSED BASED ON PLAINTIFF'S
FAILURE TO COMPLY WITH THE COURT'S
ORDER TO FILE A PRETRIAL STATEMENT

WRITTEN RESPONSE FROM PLAINTIFF DUE
IN 30 DAYS

VACATED:

Telephonic Trial Confirmation Hearing:
September 17, 2010, at 11:00 a.m.
in Courtroom 4 (GSA)

Jury Trial: **October 26, 2010, at 9:00**
****a.m. in Courtroom 4 (GSA)****

_____/

Thomas Cavner ("Plaintiff") is a civil detainee proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on February 2, 2007. (Doc. 1.) The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and on June 7, 2010, the case was reassigned to United States Magistrate Judge Gary S. Austin to conduct any and all further proceedings in the case, including trial and entry of final judgment. (Docs. 35, 39, 40.) The case is scheduled for jury trial commencing on October 26, 2010, at 9:00 a.m., before Judge Austin.

1 On March 11, 2010, the Court issued a Second Scheduling Order, requiring the parties to
2 file separate pretrial statements in accordance with Local Rule 281. (Doc. 32.) Plaintiff was
3 ordered to file a pretrial statement on or before July 9, 2010. Id. The July 9, 2010 deadline has
4 passed, and Plaintiff has not filed a pretrial statement. Plaintiff has therefore waived his rights to
5 call witnesses or introduce evidence at trial. Local Rule 110 provides that “failure of counsel or
6 of a party to comply with these Local Rules or with any order of the Court may be grounds for
7 the imposition by the Court of any and all sanctions . . . within the inherent power of the Court.”
8 Therefore, the Court shall vacate the trial, and Plaintiff is required to show cause why this case
9 should not be dismissed in its entirety.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The trial confirmation hearing for this action, scheduled for September 17, 2010,
12 at 11:00 a.m., before Magistrate Judge Gary S. Austin, is **VACATED**;
- 13 2. The jury trial for this action, scheduled to commence on October 26, 2010, at 9:00
14 a.m. before Magistrate Judge Gary S. Austin, is **VACATED**;
- 15 3. Within thirty days from the date of service of this order, Plaintiff shall file a
16 written response to the Court, showing cause why this case should not be
17 dismissed based on Plaintiff’s failure to comply with the Court’s order requiring
18 him to file a pretrial statement; and
- 19 4. Plaintiff’s failure to comply with this order shall result in the dismissal of this
20 action, with prejudice.

21
22 IT IS SO ORDERED.

23 **Dated: September 7, 2010**

24 /s/ Gary S. Austin
25 UNITED STATES MAGISTRATE JUDGE
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