

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SID LANDAU,

Plaintiff,

v.

W. T. VOSS, et al.,

Defendants.

CASE NO. 1:07-CV-00815-AWI-DLB PC

ORDER DISCHARGING ORDER TO SHOW
CAUSE (DOC. 92)ORDER VACATING SECOND
SCHEDULING ORDER (DOC. 78)

Plaintiff Sid Landau ("Plaintiff") is a civil detainee proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff's complaint against Defendants Leo Adcock, James Forrest, and Wendy Allen. On September 10, 2010, the Court filed a second scheduling order, setting dates for the filing of pretrial statements, telephonic trial confirmation hearing, and the date of trial. Doc. 78. Neither party filed a pretrial statement, and on January 18, 2011, the Court issued an order to show cause why the parties should not be sanctioned for failure to obey a court order. Doc. 92. On January 20, 2011, Defendants filed their response. The Court HEREBY DISCHARGES the order to show cause.

Defendants contend that neither party was served with the scheduling order, and thus neither party was aware of any filing deadlines. Defs.' Resp., Doc. 94. A review of the court docket indicates that the Court did serve the documents. See [Service By Mail](#) court docket entry, entered Sept. 19, 2010. It is thus unclear where the clerical error occurred. Nonetheless, the Court will not impose sanctions on either party in this action.

Accordingly, it is HEREBY ORDERED that the second scheduling order is VACATED. Defendants contend that Defendant Allen will file a motion for summary judgment in this action. For the sake of judicial economy, the Court will issue a new scheduling order after the resolution of Defendant Allen's motion.

IT IS SO ORDERED.

Dated: January 21, 2011

/s/ **Dennis L. Beck**
UNITED STATES MAGISTRATE JUDGE