

1
2
3
4
5
6
7
8
9
10 **UNITED STATES DISTRICT COURT**
11 EASTERN DISTRICT OF CALIFORNIA

12 **MAXIMILIAN MONCLOVA-CHAVEZ, 1:08-cv-00076-AWI-BAM**

13 **Plaintiff,**

**ORDER TO SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED**

14 **v.**

**ORDER VACATING JANUARY 7, 2013
HEARING**

15 **ERIC McEACHERN, et. al.,**

TEN-DAY DEADLINE

16 **Defendants.**

17 _____ / (ECF No. 112)
18

19 Plaintiff Maximilian Monclova-Chavez (“Plaintiff”) is a federal prisoner proceeding in this
20 civil rights action filed pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of
21 Narcotics, 403 U.S. 388, 91 S.Ct. 1999 (1971). This action is proceeding on the complaint, filed
22 January 15, 2008, for two separate incidents of excessive force in violation of the Eighth
23 Amendment. The Court has bifurcated the trial of Defendant Tincher from the trial against
24 Defendants Miller, White and McEachern. A jury trial for Defendants Miller and White is set for
25 February 20, 2013.¹ A telephonic trial confirmation hearing for Defendants Miller and White is set
26 for January 7, 2013. (ECF Nos. 112, 130).


27 _____
28 ¹Default was entered against Defendant McEachern on December 8, 2010. (ECF No. 72).

1 On April 23, 2012, the Court issued a scheduling order requiring the parties to file a joint
2 pretrial statement pursuant to Local Rule 281(a)(2). (ECF No. 112). The joint pretrial statement was
3 due no later December 31, 2012. The parties failed to comply with or otherwise respond to the
4 order. Accordingly, it is HEREBY ORDERED that:

- 5 1. Within **ten (10) days** from the date of service of this order, the parties shall show
6 cause in writing why this action should not be dismissed for failure to obey the
7 Court's order and for failure to prosecute this action;
- 8 2. The telephonic trial confirmation hearing set before the Honorable Anthony W. Ishii
9 on January 7, 2013, at 1:30 p.m. is VACATED.
- 10 3. The jury trial set before the Honorable Anthony W. Ishii on February 20, 2013, at
11 8:30 a.m. against Defendants Miller and White is VACATED.
- 12 4. The parties are advised that failure to respond to this order will result in dismissal of
13 this action.

14 IT IS SO ORDERED.

15 Dated: January 3, 2013



UNITED STATES DISTRICT JUDGE