

1 In the e-mail Mr. Bernstein and Richard DeHart request that they be permitted to appear via
2 telephone based upon the late notice of the hearing and because they have conflicting court
3 appearances in other jurisdictions on the same day. Mr. Bernstein also contends that he has
4 chronic health conditions. (Doc. 178). This Court has excused the personal appearance of these
5 principals at the pretrial conference held on March 23, 2010, after the Court previously received
6 an e-mail from these principals. (Doc. 177). The principals are advised that ex parte
7 communications with the Court are improper. All communications with the Court shall be made
8 through the attorneys with copies provided to all other parties in the case.

9 Having reviewed the most recent communication from the principals, the Court finds that
10 another pretrial conference at this time would not be fruitful. Accordingly, the second
11 supplemental pretrial conference set for April 20, 2010 at 2:00 pm is **VACATED**.

12 The parties are advised that the trial will proceed as scheduled on **May 11, 2010, at 8:30**
13 **am** in Courtroom 10 and the deadlines outlined in the pretrial order remain in full force and
14 effect. The Court expects that the attorneys will follow not only the spirit but the letter of the
15 pretrial order and are advised that failure to comply with the orders contained in the pretrial order
16 will result in severe sanctions including monetary sanctions and possibly other sanctions as
17 outlined in Fed. R. Civ. P. 16(f). The Court requires the personal appearance of at least one
18 attorney who will be the attorney at trial at all future hearings. All attorneys are expected to
19 make a personal appearance at the trial.

20
21 IT IS SO ORDERED.

22 **Dated: April 15, 2010**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE