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

<b>DON ROSE,</b>	)	<b>1:08-cv-606 AWI JLT</b>
	)	
<b>Plaintiff,</b>	)	<b>ORDER VACATING AND</b>
	)	<b>RESETTING PRE-TRIAL</b>
<b>v.</b>	)	<b>CONFERENCE AND ORDER</b>
	)	<b>TO SHOW CAUSE</b>
<b>SAMUEL ABRAHAM, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
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Trial in this matter is set for April 26, 2011. The pre-trial conference is set for March 4, 2011. Pre-trial statements were due no later than February 25, 2011. See Local Rule 281(a). Plaintiff filed a separate statement on February 25, 2011. However, the only Defendant who has not had summary judgment ordered against him, or whom an entry of default has not been made, is Steven Duce (hereinafter “Duce”). Duce has not filed a pre-trial statement. Plaintiff’s pre-trial statement states that Duce “has not been cooperative in attempts at contact for several months.”

Additionally, a review of the record shows that Duce has failed to keep the Court apprised of his current address. From April 20, 2010, to December 16, 2010, documents addressed to Duce have returned to the Court marked as “undeliverable.” Thus, Duce’s current address is unknown to the Court, and he is in violation of Local Rules 182(f), 183(b). The failure to keep the Court notified of a current is grounds for dismissal. See Local Rule 183(b).

The failure to follow local rules and the failure to prosecute are grounds for the Court to

1 impose sanctions, which may include an entry of default judgment. See Local Rule  
2 110; TeleVideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 916 (9th Cir. 1987); Thompson v.  
3 Housing Auth. of the City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986).

4 Duce's failure to follow the Local Rules has caused this case to come to a stand still. It is  
5 impractical and a waste of time and resources to conduct a pre-trial conference in which only one  
6 party participates. Further, the failure to notify the Court of his current address frustrates efforts  
7 of the Court to communicate with the parties and keep this case moving forward. Duce's failure  
8 to follow the local rules, combined with his apparent failure to cooperate with Plaintiff over the  
9 last several months, raises serious questions about how this case should proceed and whether  
10 Duce intends to participate.

11 In light of the above, the Court will vacate the current pre-trial conference date and issue  
12 an order to show cause. Duce will be ordered to show cause in writing with the Court why he  
13 has failed to follow Local Rules 182(f) and 183(b)'s address requirements, and Local Rule  
14 281(a)'s timing requirement for filing a pre-trial statement. He will also be required to file a pre-  
15 trial statement that complies with Local Rule 281. Defendant Steven Duce is WARNED that the  
16 failure to show cause and the failure to file a pre-trial statement will result in the imposition of  
17 sanctions, which may include the striking of his answer and/or an entry of default against him.

18  
19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. The March 4, 2011, pre-trial conference is VACATED;
- 21 2. By March 10, 2011, Defendant Steven Duce shall file a pre-trial statement as required by  
22 Local Rule 281;
- 23 3. By 1:00 p.m. March 10, 2011, Defendant Steven Duce shall show cause in writing why  
24 he has failed to comply with Local Rules 182(f), 183(b), and 281;
- 25 4. Plaintiff may file a response to Defendant's Steven Duce's response, or lack thereof, on  
26 or by March 14, 2011, at 3:00 p.m.;
- 27 4. If Plaintiff has an address for Defendant Steven Duce that is different from that which  
28 appears on the docket, Plaintiff shall forward a copy of this order to Duce immediately

1 and shall immediately notify the Court that the order has been forwarded;

2 5. The pr-trial conference date is RESET to March 17, 2011, at 9:30 a.m.; and

3 6. PLAINTIFF IS HEREBY WARNED THAT THE FAILURE TO FOLLOW THIS  
4 ORDER WILL RESULT IN THE IMPOSITION OF SANCTIONS, WHICH MAY  
5 INCLUDE THE STRIKING OF HIS ANSWER AND/OR AN ENTRY OF DEFAULT  
6 AGAINST HIM.

7  
8 IT IS SO ORDERED.

9 Dated: February 28, 2011

  
10 CHIEF UNITED STATES DISTRICT JUDGE