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13 Attorneys for Plaintiffs  
14 ANDRÉ BENJAMIN; THE BENJAMIN COMPANY,  
15 LLC; HIGH SCHOOLERS, LLC; ANDRE 3000, INC.

16  
17 UNITED STATES DISTRICT COURT  
18  
19 EASTERN DISTRICT OF CALIFORNIA

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21 ANDRE BENJAMIN, an individual;  
22 THE BENJAMIN COMPANY,  
23 LLC, limited liability company; HIGH  
24 SCHOOLERS, LLC, a limited  
25 liability company; and ANDRE  
26 3000, INC., a corporation,

27 Plaintiffs,

28 vs.

29 GREGORY BIXBY, an individual; BEN  
30 BIXBY or in the alternative BENJAMIN  
31 BIXBY, an individual; LOCK JAW  
32 RACING, a corporation; and DOES 1  
33 through 10,

34 Defendants.

35 CASE NO. 1:08-CV-01025-AWI-DLB

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37 **ORDER (1) VACATING DEFAULT, (2)**  
38 **SETTING TIME TO ANSWER FIRST**  
39 **AMENDED COMPLAINT, AND (3)**  
40 **CONTINUING SCHEDULING**  
41 **CONFERENCE**

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43 Complaint Filed: July 17, 2008

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53 [PROPOSED] ORDER VACATING DEFAULT,  
54 SETTING TIME TO ANSWER FIRST AMENDED COMPLAINT,  
55 AND CONTINUING SCHEDULING CONFERENCE

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **WHEREAS**, Plaintiffs Andre Benjamin, The Benjamin Company, LLC, High Schoolers,  
3 LLC, and Andre 3000, Inc. (collectively, "Plaintiffs") filed the original Complaint in this action  
4 on July 17, 2008;

5 **WHEREAS**, Plaintiffs filed their First Amended Complaint in this action on July 30,  
6 2008;

7 **WHEREAS**, on August 29, 2008, Plaintiffs filed Requests for Entry of Default against  
8 Defendants Gregory Bixby and Benjamin Bixby (together, "Defendants") (the "Requests for  
9 Entry of Default");

10 **WHEREAS**, on September 3, 2008, the Clerk granted Plaintiffs' Requests for Entry of  
11 Default and entered the defaults against Defendants;

12 **WHEREAS**, Defendants contest whether service of the summons and complaint on  
13 which the entries of default were based were proper under applicable law and rules;

14 **WHEREAS**, Plaintiffs and Defendants have entered into a Stipulation requesting that the  
15 Court vacate the Clerk's Entries of Default against Defendants Gregory Bixby and Benjamin  
16 Bixby (which was filed with the Court on November 25, 2008);

17 **WHEREAS**, the Court Clerk instructed counsel for Plaintiffs to submit this Order;

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28 987339\_1.p **NOW, THEREFORE, IT IS HEREBY ORDERED:**

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[PROPOSED] ORDER VACATING DEFAULT,  
SETTING TIME TO ANSWER FIRST AMENDED COMPLAINT,  
AND CONTINUING SCHEDULING CONFERENCE

- (1) The entries of default against Defendants Gregory Bixby and Benjamin Bixby are vacated;
- (2) Defendants Gregory Bixby and Benjamin Bixby shall file and serve their answer to the First Amended Complaint by no later than twenty (20) days from the date of the entry of this Order; and
- (3) The Scheduling Conference currently scheduled for February 2, 2009, at 8:45 a.m. in Courtroom 9 before Magistrate Judge Dennis L. Beck, is continued to March 16, 2009, at 8:30 a.m. in Courtroom 9 before Magistrate Judge Dennis L. Beck.

2 February 2009

/s/ Dennis L. Beck

DREIER STEIN KAHL  
BROWNE WOODS GEORGE LLP