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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ABRAHAM G. PINZON,)
)
 Plaintiff,)
)
 v.)
)
 RON JENSEN, RON JENSEN)
 CONSTRUCTION, PINECREST)
 MARKET, DAN VAUGHN, and DOES 1-)
 50,)
)
 Defendants.)
 _____)

CIV-F-08-1543 AWI SKO

**ORDER VACATING PRETRIAL
CONFERENCE AND TRIAL**

In this case, summary judgment has been granted to Defendants Pinecrest Market and Dan Vaughn. Two additional Defendants, Ron Jensen and Jensen Construction, were not part of the summary judgment motions. Both have filed waivers of service and declined consent to proceed before a Magistrate Judge. Docs. 16, 17, 24 and 25. Plaintiff Abraham Pinzon made a motion for entry of default judgment on February 8, 2010. Doc. 36. Magistrate Judge Gary Austin denied the motion without prejudice for failure to obtain a clerk’s entry of default. Doc. 38. As Judge Austin pointed out, “prior to bringing a [default judgment] motion under [Federal Rule of Civil Procedure] 55(b)(2), the Clerk must enter default pursuant to Rule 55(a) which provides as follows: ‘Entering a Default: When a party against whom affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.’” Doc. 38, at 1:24-27. If Pinzon wishes to proceed against

1 Defendants Ron Jensen and Jensen Construction, he must follow the Federal Rules. The court
2 will expect some action by Pinzon within thirty (30) days.

3 The pretrial conference set for August 30, 2011 is VACATED. The trial set for October
4 25, 2011 is VACATED.

5
6 IT IS SO ORDERED.

7 Dated: August 26, 2011

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9 _____
10 CHIEF UNITED STATES DISTRICT JUDGE