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

UNITED STATES OF AMERICA and )  
MARILYN COLLINS, Revenue )  
Officer, Internal Revenue Service, )  
 )  
Petitioners, )  
 )  
v. )  
 )  
ANDRE PAUL PROVOST, )  
 )  
Respondent. )  
\_\_\_\_\_ )

1:09-cv-00956-OWW-SMS  
**ORDER DIRECTING CLERK TO  
CLOSE CASE AND VACATE  
SCHEDULING CONFERENCE  
(Doc. 30)**  
**ORDER DISMISSING  
RESPONDENT’S FILING AS MOOT  
(Doc. 29)**

On June 1, 2009, Petitioners United States of America and Marilyn Collins, Revenue Officer, Internal Revenue Service, filed a Petition to Enforce Internal Revenue Service Summons. On June 11, 2009, the Magistrate Judge issued an Order to Show Cause Re Enforcement of the Internal Revenue Service Summons, returnable November 13, 2009. After all parties appeared at the hearing, the Magistrate Judge issued Findings and Recommendations recommending that the petition be granted and that Respondent Andre Paul Provost be ordered to appear before Revenue Officer Collins. This Court adopted the Findings and Recommendations on December 21, 2009, and ordered Respondent to appear before Revenue Officer Collins on January 13, 2010, at 10:00 a.m., to provide testimony and produce documents. Respondent complied with the Order.

1 On February 1, 2010, Respondent filed a document entitled "Notice for  
2 Declaratory Judgment and Record."

3 On February 9, 2010, Petitioners filed notice of Respondent's compliance with the  
4 summons and requested that the Court remove the March 5, 2010 scheduling conference  
5 from the calendar and close the case. Also on February 9, 2010, Petitioners filed  
6 opposition to Respondent's notice, contending that the notice's filing did not comply with  
7 Local Rule 78-230(b); that the requested declaratory judgment is inappropriate; and that  
8 because Respondent has complied with the summons, the notice is moot.

9 Respondent having complied with the IRS summons, Petitioner's enforcement  
10 action is appropriately closed, and Respondent's request for declaratory judgment is  
11 moot. Accordingly, it is HEREBY ORDERED that:

- 12 1. The scheduling conference set for March , 2010, at 9:30 a.m. before  
13 Magistrate Judge Sandra M. Snyder is **VACATED**;
- 14 2. The notice filed by Respondent on February 1, 2010, is dismissed as  
15 **MOOT** in light of Respondent's compliance with the summons that was the  
16 subject of this action and Petitioners' request to close the case; and
- 17 3. The Clerk of the Court is directed to close this case in its entirety.

18  
19  
20 IT IS SO ORDERED.

21 **Dated: February 12, 2010**

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE