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

MARTELLA AUCTION COMPANY,  
INC.

CASE NO. CV F 10-0258 LJO JLT

Plaintiff,

**ORDER TO VACATE HEARING AND TO  
SHOW CAUSE**

vs.

TRI STATE CONSTRUCTION, INC.,  
et al.,

Defendants.

\_\_\_\_\_ /

This Court’s December 23, 2010 order (“December 23 order”) set a summary judgment briefing schedule and concluded: “Pursuant to its practice, this Court will consider summary judgment on the record **without a hearing**, unless this Court orders otherwise.” (Bold added.) In disobedience of the December 23 order,<sup>1</sup> the United States (“Government”) set a February 17, 2011 hearing for its summary judgment motion. As such, this Court:

- 1. VACATES the February 17, 2011 summary judgment hearing;
- 2. ORDERS the parties to obey the December 23 order; and
- 3. ORDERS the Government’s counsel, no later than February 7, 2011, to file and serve papers to show cause why this Court should not sanction the Government’s counsel for disobedience of the December 23 order.

IT IS SO ORDERED.

**Dated: February 1, 2011**

**/s/ Lawrence J. O'Neill**

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<sup>1</sup> Putting aside the December 23 order, the Government’s counsel failed to provide sufficient notice for a summary judgment hearing as required by Local Rule 230(b).

UNITED STATES DISTRICT JUDGE

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