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

DAVID E. SIMON, et. al,	)	Case No.: 1:10-cv-00597 AWI JLT
	)	
	)	ORDER CONTINUING SCHEDULING
Plaintiffs,	)	CONFERENCE
	)	(Doc. 14)
v.	)	
	)	
MDC Credit Corp., et. al,	)	
	)	
Defendants.	)	

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On July 6, 2010, Plaintiff was granted 90 days to locate and serve defendants Jesimon Ranch, Inc. and BlueJay Mgt. (Doc. 11 at 2) At that time, Plaintiffs explained that they would seek default judgments against the two defendants who had been served and who had failed to answer. Id.

Notably, in their second amended scheduling conference report filed on October 13, 2010, plaintiffs continue to report the exact same circumstances. (Doc. 14 at 2) Plaintiffs have not provided the Court any assurance that service of the summons and complaint as to the two remaining defendants is imminent and, in fact, continue to indicate that they are unaware of their location for purposes of achieving service. Id.

Because no defendants have appeared in this matter and two have yet to be served, the

1 Court cannot schedule the case. The Order Setting Mandatory Scheduling Conference reads,

2 The Court is unable to conduct a scheduling conference until defendants have  
3 been served with the summons and complaint. Accordingly, plaintiff(s) shall  
4 diligently pursue service of summons and complaint and dismiss those defendants  
5 against whom plaintiff(s) will not pursue claims. Plaintiff(s) shall promptly file  
6 proofs of service of the summons and complaint so the Court has a record of  
service. Counsel are referred to F.R.Civ.P., Rule 4 regarding the requirement of  
timely service of the complaint. Failure to timely serve summons and complaint  
may result in the imposition of sanctions, including the dismissal of unserved  
defendants.

7 (Doc. 6 at 1-2) Therefore the Court **ORDERS**:

- 8 1. The Scheduling Conference currently set on, October 20, 2010, will be continued  
9 to January 20, 2011 at 9:00 a.m.,
- 10 2. Plaintiffs will (1) file proofs of service showing service of process on defendants  
11 Jesimon Ranch, Inc. and BlueJay Mgt., (2) seek an order allowing publication of  
12 service to these defendants, **or** (3) dismiss these defendants, no later than  
13 November 22, 2010;
- 14 3. Unless defendants MDC Credit Corp. and Premium Acquisitions, Inc., have  
15 appeared, no later than November 22, 2010, Plaintiffs will seek a default  
16 judgment against these defendants.

17 IT IS SO ORDERED.

18 Dated: October 14, 2010

19 /s/ Jennifer L. Thurston  
20 UNITED STATES MAGISTRATE JUDGE  
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