Thomas P. Riley, SBN 194706 LAW OFFICES OF THOMAS P. RILEY, P.C. First Library Square 1114 Fremont Avenue South Pasadena, CA 91030 Tel: 626-799-9797 Fax: 626-799-9795 TPRLAW@att.net **Attorneys for Plaintiffs** J & J Sports Productions, Inc. 7 8 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA 9 FRESNO DIVISION 10 J & J SPORTS PRODUCTIONS, INC., CASE NO. 1:10-cv-02104-LJO-GSA 11 Plaintiff, 12 ORDER RE PLAINTIFF'S EX PARTE 13 VS. APPLICATION FOR AN ORDER VACATING THE INITIAL 14 ALVARO L. LUPIAN, et al. **SCHEDULING CONFERENCE** 15 Defendants. 16 17 TO THE HONORABLE GARY S. AUSTIN, THE DEFENDANTS, AND THEIR 18 ATTORNEYS OF RECORD: 19 Plaintiff J & J Sports Productions, Inc. hereby applies ex parte for an order vacating the Initial 20 Scheduling Conference in this action, presently set for Thursday, February 17, 2011 at 9:00 A.M. This 21 request will be, and is, necessitated by the fact that defendant Alvaro L. Lupian a/k/a Alvaro L. Lua, 22 individually and d/b/a El Progresso 4 Bar is in default and Plaintiff's Application for Default 23 Judgment will soon be filed with this Honorable Court. 24 As such, as of this writing, Plaintiff has yet to receive an answer or any other responsive 25 pleading from the defendants. As a result, Plaintiff's counsel has not conferred with the defendant 26 concerning the claims, discovery, settlement, ADR or any of the other pertinent issues involving the

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case itself or the preparation of a Joint Scheduling Conference Statement.

| 1  | WHEREFORE, Plaintiff respectfully requests that this Honorable Court vacate the Initial              |
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| 2  | Scheduling Conference presently scheduled for Thursday, February 17, 2011 at 9:00 A.M. in order that |
| 3  | Plaintiff and its counsel may avoid necessary fees and costs in this matter presently pending final  |
| 4  | disposition by virtue of Plaintiff's Application for Default Judgment by the Court.                  |
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| 7  | Respectfully submitted,  |
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| 11 | Dated: February 9, 2011  /s/ Thomas P. Riley  LAW OFFICES OF THOMAS P. RILEY, P.C.                   |
| 12 | By: Thomas P. Riley  |
| 13 | Attorneys for Plaintiff J & J Sports Productions, Inc.   |
| 14 |  |
| 15 | <u>ORDER</u>   |
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| 17 | It is hereby ordered that the Initial Scheduling Conference of February 17, 2011, in civil action    |
| 18 | number 1:10-cv-02104-LJO-GSA styled J & J Sports Productions, Inc. v. Alvaro L. Lupian, et al., is   |
| 19 | hereby vacated.  |
| 20 | Plaintiff shall serve a copy of this Order on the Defendants and thereafter file a Certification o   |
| 21 | Service of this Order with the Clerk of the Court.   |
| 22 | Plaintiff shall also file the motion for default judgment no later than sixty (60) days from         |
| 23 | today's date.  |
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| 27 | IT IS SO ORDERED.  |
| 28 | Dated: February 9, 2011 /s/ Gary S. Austin UNITED STATES MAGISTRATE JUDGE                            |
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PLAINTIFF'S EX PARTE APPLICATION FOR AN ORDER VACATING THE SCHEDULING CONFERENCE; AND ORDER (Proposed) CASE NO. 1:10-cv-02104-LJO-GSA PAGE 2

PLAINTIFF'S EX PARTE APPLICATION FOR AN ORDER VACATING THE SCHEDULING CONFERENCE; AND ORDER (Proposed) CASE NO. 1:10-cv-02104-LJO-GSA PAGE 3