

1 On January 8, 2015, the Court held the status conference re: consent/scheduling conference. In
2 advance of that hearing, the parties were obligated to meet and confer to develop a joint scheduling
3 conference report. (Doc. 10 at 3) Defendants filed the report but noted that attempted contact of
4 Plaintiffs at their address of record, failed. (Doc. 26 at 2) Likewise, when Defendants attempted
5 contact at the telephone listed on the complaint, the person who answered denied Plaintiffs lived at
6 that location. Id. In addition, no Plaintiff appeared at the hearing.

7 In the meanwhile, the Court has become aware that Plaintiff, Barbara Miner, has prosecuted an
8 action that arises out of the same nucleus of operative facts, in state court. In that matter, the court
9 issued judgment against her and it was upheld by the Fifth District Court of Appeal in Miner v. Chase
10 Home Finance, 2014 WL 2466903 (June 3, 2014). In that appeal, the Court upheld the determination
11 that Ms. Miner failed to tender in the underlying foreclosure. The Court noted that Ms. Miner had
12 tendered payment via an “International Money Order” which, Chase Bank discovered, was not
13 negotiable. Id. at *3. The Court observed that,

14 Evidence in the record indicates plaintiff testified in deposition that she obtained the
15 IMO from a nonprofit organization called Equishare, a humanitarian group that helped
16 homeowners; her contact there was Douglas Prichard. He sent the IMO directly to
17 Chase. Plaintiff could not explain why the United States Treasury would pay off her
home loan; she simply relied on Prichard’s representations to her. Plaintiff admitted she
did not have the funds to pay off her home loan personally, and she paid Equishare
\$6,000 for its services.

18 Id. at n. 2. Thus, the Court held, “While her declaration asserts plaintiff tendered payment in the form
19 of the IMO, it does not provide any evidence that the IMO was honored and paid, or that Chase
20 received any funds from it in payment of her loan. Nothing in her declaration disputes defendants’
21 evidence that the IMO was returned unpaid, the loan was reinstated, and plaintiff failed to pay the
22 balance due and owing.” Id. at *4. Thus, the Court concluded, “Plaintiff failed to demonstrate that a
23 triable issue remained as to any material fact. Consequently, summary judgment in defendants’ favor
24 was properly granted.” Id.

25 Finally, the Court notes that Mr. Douglas Prichard did not sign the complaint whether on his
26 own behalf or on behalf of the Milton Miner Family Trust and there is no showing that he has agreed
27 to be a plaintiff in this case. Notably, Fed. R. Civ. P. 11(a) requires the complaint to be signed the
28 party if he is unrepresented. This subjects the complaint to dismissal as to these plaintiffs. Lawton v.

1 Medevac Mid-Am., Inc., 138 F.R.D. 586, 588 (D. Kan. 1991). Likewise, there is no showing that Mr.
2 Prichard² is an attorney, which is required for him to represent the trust in this matter. C.E. Pope
3 Equity Trust v. United States, 818 F.2d 696, 697-98 (9th Cir. 1987) [“Because Stradley is not the
4 actual beneficial owner of the claims being asserted by the Trusts (so far as one can tell from the
5 record), he cannot be viewed as a “party” conducting his “own case personally” within the meaning of
6 Section 1654. He may not claim that his status as trustee includes the right to present arguments pro se
7 in federal court.”]

8 Though Ms. Miner has participated minimally in this action, Mr. Prichard and the Trust have
9 had no involvement. While it appears she is attempting to represent the interests of all Plaintiffs, Ms.
10 Miner may not represent anyone other than herself in this action. McShane v. United States, 366 F.2d
11 286, 288 (9th Cir.1966). Indeed, this Court’s Local Rule 183(a) reads, “Any individual who is
12 representing himself or herself without an attorney must appear personally or by courtesy appearance
13 by an attorney admitted to the Bar of this Court and may not delegate that duty to any other individual,
14 including husband or wife, or any other party on the same side appearing without an attorney . . . All
15 obligations placed on “counsel” by these Rules apply to individuals appearing in propria persona.
16 **Failure to comply therewith may be ground for dismissal, judgment by default, or any other**
17 **sanction appropriate under these Rules.”** (Emphasis added)

18 Therefore, the Court **ORDERS**,

- 19 1. **No later than January 22, 2016**, **all** Plaintiffs **SHALL** show cause in writing why the
20 matter should not be dismissed for their failure to comply the Court’s orders and due to the fact that
21 the Fifth District Court of Appeal has determined already operative facts applicable to this case;
- 22 2. **No later than January 22, 2016**, Plaintiff, Douglas Prichard, **SHALL** show cause in
23 writing why the matter should not be dismissed for his failure to sign the complaint and to appear in
24 this action;
- 25 3. **No later than January 22, 2016**, Plaintiff, Milton Miner Family Trust, **SHALL** show
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27 _____
28 ² As noted above, in the action in the Court of Appeal, Ms. Miner identified Mr. Prichard as a person
who worked for a company called “Equishare” and not as anyone with any beneficial interest in the
trust.

1 cause in writing why the matter should not be dismissed for its failure to sign the complaint and to
2 appear in the action through counsel.

3 **Failure to comply with this order may result in the imposition of sanctions, including the**
4 **dismissal of the action as to one or all Plaintiffs.**

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6 IT IS SO ORDERED.

7 Dated: **January 8, 2016**

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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