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

JESSE GARCIA,

Plaintiff,

v.

CARGILL MEAT SOLUTIONS  
CORPORATION

Defendant.

Case No. 1:16-cv-1138 DAD-BAM

ORDER VACATING THE INITIAL  
SCHEDULING CONFERENCE

ORDER DIRECTING PLAINTIFF TO FILE  
A MOTION TO WITHDRAW OR  
ATTORNEY SUBSTITUTION WITHIN  
FORTY-FIVE DAYS

On January 23, 2017, Plaintiff’s counsel Richard Moser, through his wife Roxanna Moser, filed a “Notice of Incapacity of Attorney.” (Doc. 14). Mrs. Moser’s declaration states that Plaintiff’s counsel, having been diagnosed with congestive heart failure on January 19, 2017, is “completely physically unable to practice law.” Declaration of Roxanna Moser (“Moser Decl.”), at 1, (Doc. 14). Given Mr. Moser’s inability to continue representation, the notice further directs Plaintiff to retain new counsel and make the necessary arrangements to procure his client file. Mrs. Moser, who is not licensed to practice law and does not represent Plaintiff Jesse Garcia, also outlines an ongoing discovery dispute with Defendant Cargill Meat Solutions Corporation. Moser Decl. at 2.

On January 23, 2017, Defendant filed a response to the discovery dispute allegations but

1 did not address counsel's incapacitated state.<sup>1</sup>

2           Based on the representations of Mrs. Moser, the Initial Scheduling Conference set for  
3 January 31, 2017 is VACATED. In the interim, Plaintiff is directed to file a motion to withdraw  
4 as counsel of record or a substitution of attorney on or before March 10, 2017. If no motion is  
5 filed, the Court intends to set a STATUS CONFERENCE for March 15, 2017 in Courtroom 8  
6 **before United States Magistrate Judge Barbara A. McAuliffe.**

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8 IT IS SO ORDERED.

9 Dated: January 24, 2017

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE

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27 <sup>1</sup> Given the posture of this case and Plaintiff's failure to comply with Local Rule 251 for motions  
28 regarding discovery disagreements, the Court declines to address this discovery dispute, not properly before the  
Court, at this time. L.R. 251.