## 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 CLEAR RECON CORP. Case No.: 1:16-cv-01837 DAD JLT 12 Plaintiff, ORDER VACATING SETTLEMENT CONFERENCE; ORDER TO RACHAEL 13 v. RODRIGUEZ TO SHOW CAUSE WHY 14 ALL CLAIMANTS TO SURPLUS SANCTIONS SHOULD NOT BE IMPOSED FOR FUNDSAFTER A TRUSTEE'S SALE OF HER FAILURE TO COMPLY WITH THE THE REAL PROPERTY LOCATED AT 15 COURT'S ORDERS. 9903 CHEYENNE DRIVE, BAKERSFIELD, 16 CA 93312. Defendants. 17 On March 3, 2017, the Court issued a scheduling order in this case. (Doc. 13) At that time, the 18 19 Court set a settlement conference for July 14, 2017 and ordered the parties to lodge settlement 20 conference statements at least five days before the conference. (Doc. 13 at 6) When this did not occur, 21 the Court issued a minute order giving the parties until 5:00 p.m. on July 12, 2017 to do so. (Doc. 18) Despite having been discharged from this case<sup>1</sup>, Clear Recon lodged a statement as did the United 22 23 States of America. However, claimant/defendant Rachael Rodriguez has failed to do so. Instead, her 24 attorney merely sought permission to allow him and his client to appear by telephone at the conference.<sup>2</sup> 25 26

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<sup>1</sup> The court has noted previously that Clear Recon was discharged from this action. (Doc. 13, at 1 n.1) Clear Recon is

<sup>2</sup> Counsel offers no explanation why he should not have to appear at the settlement conference. The Court infers that he feels that this is appropriate merely because he lives in Washington. However, presumably he was aware of the

not required to further participate in this action (Doc. 11 at 2; Doc. 12)

From review of the statement filed by the United States, it appears there is no one available with which the government may settle the case and, given her absolute failure to comply with the Court's orders, the Court has no reason to believe that Ms. Rodriguez believes she has a legitimate claim to the funds. Moreover, in light of the recently filed request to appear by telephone, it is apparent that neither she nor her attorney intends to appear at tomorrow's conference. Thus, the Court **ORDERS**:

- 1. The settlement conference, set on July 14, 2017, is **VACATED**;
- 2. **No later than July 21, 2017**, claimant/defendant Rachael Rodriguez **SHALL** show cause in writing why sanctions, up to and including striking her claim and the Court entering default against her, should not be imposed for her failure to comply with the Court's orders. Alternatively, she may file a notice of the abandonment of her claim.

IT IS SO ORDERED.

Dated: July 13, 2017 /s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

venue of this case at the time he accepted the representation. The Court would have to be advised of extreme circumstances—not including mere inconvenience or travel costs of counsel—for the Court to excuse an attorney's attendance at a settlement conference. In the event that Ms. Rodriguez intends to pursue her claim, the Court will immediately re-set the settlement conference and her counsel is advised that a further unsupported request for him to be excused from attending the conference will be summarily denied (Doc. 13 at 5).