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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOGERT ABRANTES,

Plaintiff,

v.

AMERICAN BLINDS AND DRAPERIES,
INC., et al.

Defendants.

Case No. 1:17-cv-00152-AWI-SAB

ORDER DISCHARGING SEPTEMBER 28,
2017 ORDER TO SHOW CAUSE AS TO
PLAINTIFF

ORDER CONTINUING SCHEDULING
CONFERENCE TO NOVEMBER 21, 2017,
AT 10:30 A.M.

Plaintiff Jogert Abrantes filed this action on February 3, 2017, alleging violations of the Telephone Consumer Protection Act. (ECF No. 1.)

On August 25, 2017, the Court issued an order continuing the mandatory scheduling conference to October 2, 2017, with the joint statement due seven days prior. (ECF No. 17.) On September 1, 2017, Defendant Paul Russo (“Defendant Russo”), appearing pro se, filed an answer. (ECF No. 19.)

On September 28, 2017, an order was filed requiring Plaintiff and Defendant Russo to show cause on or before October 4, 2017, why sanctions should not issue for the failure to file the joint scheduling report. (ECF No. 20.) The Court noted that Plaintiff had not filed a request for default for Defendant American Blinds and Draperies, Inc. or otherwise indicated the status of this action against Defendant American Blinds and Draperies, Inc. (ECF No. 20.)

1 On October 4, 2017, Plaintiff filed a response to the order to show cause. (ECF No. 21.)
2 Defendant Russo has not responded to the order to show cause.

3 Based upon Plaintiff's response to the order to show cause, the Court shall discharge the
4 order to show cause as to Plaintiff. The Court notes that this is not the first time in this matter
5 that counsel Todd Friedman has indicated that he miscalendared the date for a deadline. See
6 ECF No. 10. Counsel Todd Friedman is hereby provided with notice that should there be future
7 failures to respond to orders of this Court, monetary sanctions will issue without further notice.

8 In Plaintiff's response to the order to show cause, he requests that the Court either strike
9 Defendant Russo's answer for failing to comply with Local Rule 131, or order dismissal without
10 prejudice at this time. Plaintiff indicates that if the Court strikes Defendant Russo's answer, then
11 Plaintiff can file a notice of dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

12 Plaintiff has not filed a noticed motion to strike Defendant Russo's answer, so the Court
13 does not render a decision on the request to strike Defendant Russo's answer. The Court does
14 note that Defendant Russo did provide his name and address on the first page of his answer, and
15 Defendant Russo's address is listed on the docket. Plaintiff also indicates that he mailed a letter
16 to Defendant Russo on September 29, 2017.

17 If Plaintiff desires to dismiss this action, he has remedies available pursuant to Federal
18 Rule of Civil Procedure 41 and must follow the procedures described therein. The Court notes
19 that while Plaintiff requests that the Court order dismissal without prejudice at this time pursuant
20 to Federal Rule of Civil Procedure 41(a)(2), Plaintiff has not filed a noticed motion. The Court
21 will continue the scheduling conference in this matter to November 21, 2017, so that Plaintiff
22 may utilize one of the remedies available pursuant to Federal Rule of Civil Procedure 41 if he
23 desires to dismiss this action. A joint scheduling report is 7 days prior to the scheduling
24 conference.

25 Accordingly, IT IS HEREBY ORDERED that:

- 26 1. The order to show cause, filed September 28, 2017, is DISCHARGED as to
27 Plaintiff only;
- 28 2. The scheduling conference is CONTINUED from October 23, 2017, to

1 **November 21, 2017, at 10:30 a.m.** in Courtroom 9;

2 3. The parties shall file a joint scheduling report **seven (7) days prior to the**
3 **scheduling conference date;** and

4 4. Counsel Todd Friedman is advised that future failures to respond to orders of this
5 Court will result in the issuance of monetary sanctions. This shall constitute prior
6 notice for the imposition of future monetary sanctions for failure to comply with
7 orders of this Court.

8
9 IT IS SO ORDERED.

10 Dated: **October 5, 2017**



UNITED STATES MAGISTRATE JUDGE