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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN STINCHECUM, et al.,
Plaintiffs,
v.
DOLLAR GENERAL CORP.,
Defendant.

Case No. 1:17-cv-00240-DAD-SAB
ORDER DISCHARGING ORDER TO
SHOW CAUSE AS TO DEFENSE
COUNSEL ONLY

Plaintiffs John Stinchecum and Peta Stinchecum filed this action against Dollar General Corp. on December 5, 2016, in Fresno County Superior Court. (ECF No. 1, Exhibit A.) On February 17, 2017, Defendant removed this action to the Eastern District of California. (ECF No. 1.) On June 20, 2018, Defendant filed a notice that the parties have agreed to settle this matter. (ECF No. 26.) An order issued requiring the parties to file dispositional documents within thirty-days of June 21, 2018. (ECF No. 27.) The parties did not file dispositive documents in compliance with the June 21, 2018 order.

On August 1, 2018, an order issued requiring the parties to show cause within fourteen days why this action should not be dismissed for the failure to comply with the June 21, 2018. (ECF No. 28.) The parties did not respond to to the August 1, 2018 order. On August 22, 2018, an order issued requiring counsel for the parties to personally appear on September 5, 2018 to show cause why monetary sanctions should not issue for the failure to comply. (ECF No. 30.)

1 On August 27, 2018, a notice of voluntary dismissal was filed. (ECF No. 31.) On September 4,
2 2018, Defendant filed a declaration addressing the failure to comply. (ECF No. 32.) On this
3 same date the hearing was continued to September 12, 2018 at the request of counsel. (ECF No.
4 33.)

5 In her response, defense counsel declares that, after the parties had executed the
6 settlement agreement, she believed that Plaintiff would be filing the notice of dismissal. As
7 defense counsel points out, although the August 1, 2018 order was captioned “Order for Parties
8 to Show Cause Why Action Should Not be Dismissed for Failure to File Dispositive
9 Documents”, the order section required that Plaintiff respond to the order to show cause and for
10 that reason no response was filed by Defendant. (ECF No. 28.) However, the June 21, 2018
11 order required the “parties” to file dispositional documents, and since the documents were not
12 filed in compliance with the order Defendant should have responded to the Court as to why it did
13 not comply with the June 21 order or ensured that compliance from the plaintiff was
14 forthcoming, not ignore that order.

15 Based on the foregoing, IT IS HEREBY ORDERED that the order to show cause is
16 DISCHARGED as to DEFENSE COUNSEL ONLY, and defense counsel need not appear at the
17 September 12, 2018 hearing.

18 IT IS SO ORDERED.

19 Dated: September 6, 2018

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22 UNITED STATES MAGISTRATE JUDGE
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