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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 JOSE GONZALEZ MANRIQUEZ,  
11 et al.,

12 Plaintiffs,

No. CIV S-08-0880 KJM EFB PS

13 vs.

14 TODD GOODRUM, et al.,

15 Defendants.

ORDER AND  
FINDINGS AND RECOMMENDATIONS

16 On September 21, 2010, this action was referred to the undersigned pursuant to Local  
17 Rule 302(c)(21) and 28 U.S.C. § 636(c). Dckt. No. 37. The order referring the action vacated  
18 all hearing dates then set before the district judge and any scheduling orders that had been issued  
19 in the action. *Id.* Therefore, on September 28, 2010, the undersigned issued an order scheduling  
20 a final pretrial conference before the undersigned on December 8, 2010 and a trial before the  
21 assigned district judge on April 12, 2011. Dckt. No. 38. The September 28 order also directed  
22 the parties to file a joint pretrial statement on or before November 24, 2010 and directed the  
23 parties to meet and confer in advance thereof in order to prepare the joint statement. *Id.*  
24 Because plaintiffs had earlier informed the court that they could not obtain the cooperation of the  
25 remaining defendants, Todd Goodrum and John Goodrum, dba Todd Goodrum Construction and  
26 Goodrum Builders (“defendants”), in preparing a joint pretrial statement, Dckt. No. 35, the

1 September 28 order further provided that “[i]f plaintiffs are unable to obtain the participation of  
2 defendants in the preparation of a joint pretrial statement, plaintiffs shall so notify the court on or  
3 before November 17, 2010, and shall explain how plaintiffs intend to proceed with this action.”

4 *Id.*

5 On November 17, 2010, plaintiffs’ counsel filed a declaration, stating that he had  
6 “attempted to have the Defendants contact our office to prepare a Joint Pretrial Statement by  
7 letter sent by overnight mail,” but that defendants did not contact his office. Dckt. Nos. 39, 40.  
8 Plaintiffs’ counsel also filed a letter to the court, requesting that the court “allow the Plaintiff’s  
9 attorney to file for Default Judgment” since defendants have been unwilling to cooperate in these  
10 proceedings and since the past behavior suggests that it is unlikely defendants would appear at  
11 trial. Dckt. No. 41.

12 In light of defendants’ failures to communicate with plaintiffs in order to prepare a joint  
13 pretrial statement, as required by the September 28 order and by an earlier order from the  
14 assigned district judge, *see* Dckt. Nos. 32, 35, on November 22, 2010, the undersigned issued an  
15 order continuing the final pretrial conference from December 8, 2010 to February 9, 2011 and  
16 directing defendants to show cause, on or before December 15, 2010, why their answer to  
17 plaintiffs’ complaint should not be stricken and default entered against them due to  
18 their failures to communicate with plaintiffs in order to prepare a joint pretrial statement, as  
19 required by the September 28 order. Dckt. No. 42 at 3. The order provided that “If defendants  
20 fail to respond to the order to show cause, the final pretrial conference and trial dates will be  
21 vacated and the undersigned will recommend that their answer be stricken, that default be  
22 entered against them, and that plaintiffs be permitted to seek default judgment against them.” *Id.*  
23 at 2 (citing L.R. 110 (“Failure of counsel or of a party to comply with these Rules or with any  
24 order of the Court may be grounds for imposition by the Court of any and all sanctions  
25 authorized by statute or Rule or within the inherent power of the Court.”); Fed. R. Civ. P. 16(f)  
26 (“On motion or on its own, the court may issue any just orders, including those authorized by

1 Rule 37(b)(2)(A)(ii)-(vii), if a party or its attorney . . . (C) fails to obey a scheduling or other  
2 pretrial order.”); L.R. 183 (“Any individual representing himself or herself without an attorney is  
3 bound by the Federal Rules of Civil or Criminal Procedure and by these Local Rules.”); *and*  
4 *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (“Failure to follow a district court’s local rules  
5 is a proper ground for dismissal.”)).

6 The deadline for responding to the order to show cause has now passed and defendants  
7 have failed to file a response thereto.

8 Accordingly, IT IS HEREBY ORDERED that the final pretrial conference currently set  
9 for February 9, 2011 before the undersigned and the trial set for April 12, 2011 before the  
10 assigned district judge are vacated.

11 IT IS FURTHER RECOMMENDED that:

12 1. Defendants’ answer, Dckt. No. 9, be stricken due to defendants’ failure to  
13 communicate with plaintiffs in order to prepare a joint pretrial statement and due to defendants’  
14 failure to comply with numerous court orders and this court’s Local Rules;

15 2. The Clerk be directed to enter default against defendants Todd Goodrum and John  
16 Goodrum, dba Todd Goodrum Construction and Goodrum Builders, pursuant to Federal Rule of  
17 Civil Procedure 55(a); and

18 3. Plaintiffs be permitted to move for default judgment against defendants within thirty  
19 days from the date defendants’ default is entered.

20 DATED: February 1, 2011.

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22 EDMUND F. BRENNAN  
23 UNITED STATES MAGISTRATE JUDGE  
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