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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE EASTERN DISTRICT OF CALIFORNIA
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8 Scott N. Johnson,)
9 Plaintiff,) 2:08-cv-02553-GEB-JFM
10 v.) ORDER TO SHOW CAUSE
11 Ram Nadir, Individually and)
12 d/b/a Sam's Liquor & Food;)
13 Kashmir Singh, Individually and)
14 d/b/a Sam's Liquor & Food,)
Defendant.)
_____)

15 The Status (Pretrial Scheduling) Order filed February 3, 2009,
16 scheduled a final pretrial conference in this case on December 6, 2010.
17 (ECF No. 16.) That Order prescribed: "The parties shall file a JOINT
18 pretrial statement no later than seven (7) calendar days prior to the
19 final pretrial conference." Id. at 4:12-13. No pretrial statement was
20 filed.

21 Review of the filings in this action reveals the following:
22 The February 3, 2009 Status Order required "Plaintiff [to] file a motion
23 for default judgment against Defendants Ram Nadir and Kashmir Singh by
24 April 2009." Id. at 1:27-28. Plaintiff filed a motion for default
25 judgment against said defendants on February 2, 2009, which was denied
26 without prejudice on March 27, 2009, based upon Plaintiff's
27 representation at the hearing on said motion that "he would withdraw
28 [the] motion pending further developments in the case." (ECF Nos. 15,

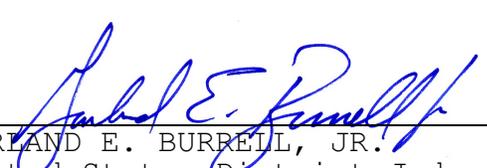
1 18.) Plaintiff filed a First Amended Complaint against Defendants Ram
2 Nadir and Kashmire Singh more than eleven months after his motion for
3 default judgement was denied, on March 11, 2010. (ECF No. 20.) Plaintiff
4 filed a Request for Entry of Default against Defendants Ram Nadir and
5 Kashmire Singh on May 24, 2010, and the clerk entered default as to
6 those defendants on June 4, 2010. (ECF Nos. 22, 23.) Plaintiff has not
7 filed a motion for default judgment.

8 For the stated reasons, the December 6, 2010 final pretrial
9 conference and March 8, 2011 trial are vacated. A status conference is
10 scheduled to commence at 9:00 a.m. on January 18, 2011. A status report
11 shall be filed fourteen (14) days prior to the status conference in
12 which Plaintiff is required to explain the status of the default
13 proceedings and why this action should not be dismissed for failure to
14 prosecute.

15 Further, Plaintiff is ORDERED TO SHOW CAUSE (OSC), in a
16 writing filed no later than 4:00 p.m. on December 10, 2010, why
17 sanctions should not be imposed under Rule 16(f) of the Federal Rules of
18 Civil Procedure for failure to file a timely a final pretrial statement.
19 Plaintiff shall state in the response to the OSC whether a hearing is
20 requested on the OSC. If a hearing is requested, it will be held at the
21 time of the status conference.

22 IT IS SO ORDERED.

23 Dated: November 30, 2010

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GARLAND E. BURRELL, JR.
27 United States District Judge
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