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

ALLEN ELSETH, by his guardians)	
ad litem, Roger Elseth and)	2:08-cv-02890-GEB-CMK
Patricia Ann Elseth,)	
)	
Plaintiff,)	<u>ORDER SETTING BRIEFING</u>
)	<u>SCHEDULE, VACATING TRIAL, AND</u>
v.)	<u>DECIDING PLAINTIFF'S</u>
)	<u>RECONSIDERATION MOTION</u>
Deputy Probation Officer Jeff)	
Elorduy, individually,)	
)	
Defendant.)	
_____)	

A hearing was scheduled on August 30, 2011, commencing at 11:00 a.m., on Plaintiff's request that he be allowed to give trial testimony by contemporaneous transmission from a location in Nevada. However, for the second day in a row, Plaintiff's counsel failed to make an appearance at a scheduled hearing. At the hearing, Defense counsel moved for an order dismissing this action based, inter alia, on the failure of Plaintiff's counsel to appear at the hearings and to be ready for trial scheduled to commence in this action.

In light of Defendant's request, and the failure of Plaintiff's counsel to appear at two hearings, and his apparent failure to be prepared to try this case, the following schedule is established:

- (1) On or before September 13, 2011, Defendant's referenced motion to dismiss shall be filed;

1 (2) On or before September 27, 2011, Plaintiff shall file a
2 response to Defendant's motion;

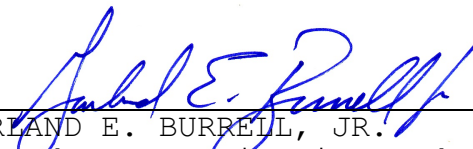
3 (3) On or before October 4, 2011, Defendant may file a reply
4 to Plaintiff's response;

5 (4) A hearing on Defendant's motion is set for October 11,
6 2011, commencing at 9:00 a.m.

7 Further, in light of the failure of Plaintiff's counsel to
8 appear at scheduled hearings relating to trial matters and Defendant's
9 indication of an intent to file a dispositive motion, the trial
10 scheduled to commence on August 31, 2011 at 9:00 a.m. is vacated.

11 Finally, Plaintiff's motion to give trial testimony by
12 contemporaneous transmission from a location in Nevada is no longer ripe
13 for adjudication in light of this order; and Plaintiff alternative
14 motion for an order continuing the trial is denied as moot.

15 Dated: August 30, 2011

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19 GARLAND E. BURRELL, JR.
20 United States District Judge
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