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

DAWN ALLGAIER,)	
)	2:09-cv-01126-GEB-DAD
Plaintiff,)	
)	ORDER IMPOSING A SANCTION
v.)	
)	
AUTOVILLE OF ROSEVILLE,)	
)	
Defendant.)	
_____)	

Plaintiff and her lawyer were issued an Order to Show Cause ("OSC") on July 20, 2009, which required them to explain why sanctions should not be imposed for Plaintiff's failure to file a timely status report. On August 10, 2009, Plaintiff's counsel filed a response to the OSC, in which he states: "For reasons unbeknownst to the undersigned counsel, the Court's orders in this regard were not calendared, and as a consequence, the undersigned counsel did not timely cause a status report to be filed in compliance with the Court's orders."

Counsel should know why he did not comply with the order, and should have provided assurance that procedures are developed which reasonably safeguard against reoccurrence of the mishap.

1 It is certainly understandable that attorneys
2 frequently choose to delegate [calendaring filing
3 dates] to paralegals or other associates, leaving
4 to them the task of reading and complying with the
5 applicable rules [and orders] of court. But it
6 should never be forgotten that the attorney of
7 record is ultimately responsible for [timely
8 filing documents]. It is therefore the
9 professional duty of the attorney of record to
10 ensure through proper supervision that all
11 [documents are filed when due].

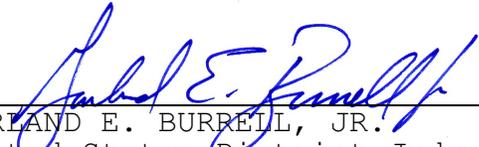
12 Dela Rosa v. Scottsdale Memorial Health Systems, Inc., 136 F.3d 1241,
13 1244 (9th Cir. 1998).

14 Plaintiff's counsel should also know that "[a] scheduling
15 order is not a frivolous piece of paper, idly entered, which can be
16 cavalierly disregarded by counsel without peril Disregard of
17 the order would undermine the court's ability to control its docket
18 . . . and reward the indolent and the cavalier." Johnson v. Mammoth
19 Recreations, Inc. 975 F.2d 604, 610 (9th Cir. 1992) (citation and
20 quotations omitted); see also Ayers v. City of Richmond, 895 F.2d
21 1267, 1270 (9th Cir. 1990) (affirming sanction of lawyer for failure
22 to attend a settlement conference because **"the date 'slipped by him'"**)
23 (emphasis added). "The cogs of the wheel of justice move much more
24 smoothly when attorneys who practice in this court follow the rules of
25 practice and procedure" Dela Rosa, 136 F.3d at 1244.

26 Since Plaintiff's counsel failed to file a timely status
27 report, and the response of Plaintiff's attorney G. Thomas Martin III
28 and/or Krohn & Moss, Ltd., to the OSC is insufficient to avoid
imposition of a sanction, a sanction will be imposed. Therefore,
Plaintiff's attorney G. Thomas Martin III and/or Krohn & Moss, Ltd.,
is sanctioned one hundred fifty dollars (\$150.00) for failure to
timely file a status report. This sanction shall be paid to the Clerk
of this Court within ten (10) days from the date on which this Order

1 is filed by a check made payable to the "United States Treasury."
2 Proof of payment shall be sent to the undersigned judge's chambers
3 within five (5) days of payment. This sanction is personal
4 to counsel or his law firm and shall not be transmitted to counsel's
5 client.

6 Dated: August 19, 2009

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GARLAND E. BURRELL, JR.
United States District Judge

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