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

8 UNITED STATES OF AMERICA and)
9 STATE OF CALIFORNIA, *ex rel.*)
10 DUSTIN WALTERS, JANE ROE, and)
11 RICHARD ROE,)

12 Plaintiffs)

13 v.)

14 EDUCATION MANAGEMENT)
15 CORPORATION, THE ART INSTITUTES,)
16 and DOES 1-500, Inclusive,)

17 Defendants.)
18 _____)

2:10-cv-02479-GEB-EFB

ORDER TO SHOW CAUSE AND
CONTINUING STATUS (PRETRIAL
SCHEDULING) CONFERENCE; FED.
R. CIV. P. 4(M) NOTICE

19 The September 1, 2011, Minute Order scheduled a Status
20 (Pretrial Scheduling) Conference in this case on November 14, 2011, and
21 required the parties to file a joint status report no later than
22 fourteen (14) days prior to the scheduling conference. No status report
23 was filed as ordered.

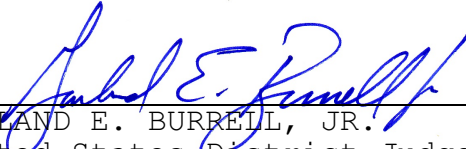
24 Therefore, Plaintiffs Dustin Walters, Jane Roe, and Richard
25 Roe ("Named Plaintiffs") are Ordered to Show Cause ("OSC") in a writing
26 to be filed no later than 4:00 p.m. on November 14, 2011, why sanctions
27 should not be imposed against them and/or their counsel under Rule 16(f)
28 of the Federal Rules of Civil Procedure for failure to file a timely
status report. The written response shall also state whether Named
Plaintiffs or their counsel is at fault, and whether a hearing is

1 requested on the OSC.¹ If a hearing is requested, it will be held on
2 December 12, 2011, at 9:00 a.m., just prior to the status conference,
3 which is rescheduled to that date and time. A joint status report shall
4 be filed no later than fourteen (14) days prior to the status
5 conference.

6 Further, Named Plaintiffs are notified under Rule 4(m) of the
7 Federal Rules of Civil Procedure that any defendant not served with
8 process within the 120 day period prescribed in that Rule may be
9 dismissed as a defendant. To avoid dismissal, on or before November 14,
10 2011, Named Plaintiffs shall file proof of service for any unserved
11 defendant or a sufficient explanation why service was not effected
12 within Rule 4(m)'s prescribed service period.

13 In light of the threat of dismissal in this Order and the
14 requests of the United States of America and the State of California to
15 be notified in advance of any dismissal, the Clerk's Office shall serve
16 this Order on the United States Attorney's Office and the California
17 Attorney General's Office. See ECF Nos. 8-9, 12-13.

18 Dated: November 7, 2011

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21 GARLAND E. BURRELL, JR.
22 United States District Judge
23
24

25 ¹ "If the fault lies with the attorney, that is where the impact
26 of sanction should be lodged. If the fault lies with the clients, that
27 is where the impact of the sanction should be lodged." Matter of
28 Sanction of Baker, 744 F.2d 1438, 1442 (10th Cir. 1984), cert. denied,
471 U.S. 1014 (1985). Sometimes the faults of attorneys, and their
consequences, are visited upon clients. In re Hill, 775 F.2d 1385, 1387
(9th Cir. 1985).