

1 LOUIS A. HIGHMAN, State Bar No. 61703  
 BRUCE J. HIGHMAN, State Bar No. 101760  
 2 HIGHMAN, HIGHMAN & BALL  
 A Professional Law Association  
 3 870 Market Street, Suite 467  
 San Francisco, California 94102  
 4 Telephone: (415) 982-5563

5 Attorneys for Plaintiff Darlene Peets

6  
 7

8 In the United States District Court  
 9 In and for the Eastern District of California  
 10 Sacramento Division

11

DARLENE PEETS, CASE NO. 2:11-CV-02267-LKK-CKD

12

Plaintiff,

13

-v-

14

STIPULATED APPLICATION FOR  
 CONTINUANCE OF INITIAL  
 STATUS (PRETRIAL SCHEDULING)  
 CONFERENCE, AND OF FILING OF  
 15 STATUS REPORT RELATED  
 16 THERETO; ORDER

16

Defendants.

17

\_\_\_\_\_ /

18

Louis A. Highman declares as follows:

19

I am the lead attorney handling the case of

20

plaintiff Darlene Peets referenced hereinabove.

21

On August 26, 2011, I was electronically mailed

22

directly at my own e-mail, [louis.highman@highman-ball.com](mailto:louis.highman@highman-ball.com), an

23

e-mail from the Court entitled "Notice of Electronic Filing"

24

indicating Document Number 5 had been filed, and stating

25

"Docket Text: CIVIL NEW CASE DOCUMENTS ISSUED; Initial

26

Scheduling Conference set for 11/7/2011 at 02:30 PM in

27

Courtroom 4 (LKK) before Judge Lawrence K. Karlton. (Becknal,

28

1 R.)" Attached to the Notice of Electronic Filing was a link  
2 to Document Number 5. The Pacer attachment separated out, on  
3 the document selection menu, an Attachment 1 ("Consent Form"—2  
4 pages) and an Attachment 2 ("VDRP Form"—2 pages) from the text  
5 of Document No. 5 (6 pages). It looks like what happened  
6 inadvertently was Attachment 1 and Attachment 2 were printed  
7 out and viewed (along with the cover e-mail "Notice of  
8 Electronic Filing" (one page) by me but the six-page text of  
9 Document No. 5 on the Document Selection Menu was not printed  
10 out or viewed. My office administrator/legal assistant, Kevin  
11 Mendez, sent out to the process server a copy of Attachment 1  
12 ("Consent Form") and Attachment 2 ("VDRP Form") along with the  
13 summons and complaint to be served on the defendants, and  
14 after those documents were served, our office filed a proof of  
15 service as to those documents; but the 6-page Order (the text  
16 of Document 5), was not served, since I apparently  
17 inadvertently only printed out Attachment 1 and 2, and not the  
18 6-page text of the actual order. My office  
19 administrator/legal assistant put down on our calendar the  
20 November 7, 2011 Initial Scheduling Conference because it  
21 appears I also printed out and handed him the one page Notice  
22 of Electronic Filing (which had the date of the Initial  
23 Scheduling Conference printed on it), along with Attachment 1  
24 and 2 (but not the six page text of Document 5, which went  
25 into detail on the Scheduling Conference, and explained the  
26 filing of a Status Report, etc.). However, my office  
27 administrator/legal assistant did not put down anything about  
28

1 the preparation and filing of the status report because that  
2 was in the six page text of Document 5 which I apparently did  
3 not print out.

4           On or about Friday, October 28, 2011, I was out of  
5 town at a conference, and my office administrator mentioned to  
6 me in a telephone call that there was an initial scheduling  
7 conference scheduled in Darlene Peets' case on November 7,  
8 2011. When I got back in to the office on Monday, October 31,  
9 I checked into it, and discovered the aforesaid problem--that  
10 I had apparently printed out only Attachment 1 and 2 of the  
11 Notice of Electronic Filing (along with the cover sheet  
12 informing me in summary form there was an "Initial Scheduling  
13 Conference" on November 7, 2011 (but not going into the  
14 details of the status report, etc.)

15           I spoke today, October 31, 2011, to opposing  
16 defendants' counsel, Michael Lucey, who agreed to stipulate to  
17 continue the conference to December 5, 2011, and then have the  
18 status report due two weeks before the new scheduling  
19 conference date.

20           I apologize for the inconvenience to the Court. It  
21 was my fault for inadvertently not printing out the 6-page  
22 text of the order, and just printing out only Attachment 1 and  
23 2 and the one-page Notice of Electronic Filing, which caused  
24 this problem.

25           During this time period, my 96-year old father (for  
26 whom I have been a primary care giver for many years--he has  
27 lived with me) was hospitalized and was in the ICU several  
28

1 times, and was very sick--from on or about July 28, 2011 to on  
2 or about September 7, 2011. It was a very stressful and  
3 distracting time for me, and it may have contributed to my  
4 inadvertence in this regard. Also, on most of my federal  
5 cases, the notices are sent directly to my office  
6 administrator/legal assistant at the main firm e-mail address  
7 ([attorneys@highman-ball.com](mailto:attorneys@highman-ball.com)), so he takes care of calendaring  
8 the matters directly. The e-mails on this case are being sent  
9 to my direct e-mail address, [louis.highman@highman-ball.com](mailto:louis.highman@highman-ball.com),  
10 and I believe this may have possibly added to the confusion of  
11 the situation, as well.

12           Having said all of the above, I ultimately take full  
13 responsibility for this inadvertent error, and apologize to  
14 the Court for any inconvenience I have caused.

15           I would respectfully request that based on all the  
16 aforesaid, the Court continue the initial scheduling  
17 conference date in the above-referenced case from November 7,  
18 2011 to another date on a Monday or Tuesday no sooner than  
19 November 28, 2011, and that the status report filing date be  
20 continued to two weeks before the new scheduling conference  
21 date. I spoke to Michael Lucey, attorney for defendants, on  
22 this matter, earlier today (October 31, 2011), and he agreed  
23 to stipulate to the aforesaid continuance, indicating his  
24 preferred new date for the conference would be December 5,  
25 2011, if it is available.

26           I declare under penalty of perjury that the foregoing  
27 is true and correct, and was executed on October 31, 2011, at  
28

1 San Francisco, California.

2 /s/Louis A. Highman

3 Louis A. Highman

4 The parties, by and through their respective  
5 attorneys hereby stipulate and agree that the initial  
6 scheduling conference date in the above-referenced case be  
7 continued from November 7, 2011 to another date (preferably  
8 December 5, 2011, if it is available), and that the status  
9 report filing date in the above-referenced case be continued  
10 to two weeks before the proposed new initial scheduling  
11 conference date).

12 DATED: October 31, 2011 LOUIS A. HIGHMAN  
13 BRUCE J. HIGHMAN  
HIGHMAN, HIGHMAN & BALL

14 /s/Louis A. Highman  
15 Attorneys for Plaintiff  
DARLENE PEETS

16  
17 DATED: October 31, 2011 MICHAEL T. LUCEY  
18 STEPHANIE B. WERSEL  
19 GORDON & REES LLP

20 /s/Michael T. Lucey  
21 Attorneys for Defendants  
SAGAR, INC. AND PAKSN, INC.


22 ORDER

23 Good cause appearing therefor, IT IS HEREBY ORDERED  
24 that the Stipulated Application for Continuance of Initial  
25 Status (Pretrial Scheduling) Conference be and is hereby  
26 granted, and that the Initial Status (Pretrial Scheduling)  
27 Conference be and is HEREBY ORDERED continued to December 5,  
28

1 2011, at 3:00 p.m., and that the status reports are due  
2 fourteen (14) days prior to the status conference.

3 DATED: November 1, 2011

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

  
LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT