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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NICHOLAS JAMES MURPHY

No. 2:17-cv-0242-JAM-KJN PS

Plaintiff,

ORDER TO SHOW CAUSE

v.

MIDLAND FUNDING, LLC

Defendant.

After plaintiff Nicholas Murphy initially commenced this case in the Sacramento County Superior Court as a small claims action, it was removed by defendant Midland Funding, LLC to federal court on February 3, 2017. (ECF Nos. 1, 2.) That same day, the court issued an order requiring the parties to file a joint status report within sixty (60) days. (ECF No. 3.) Thereafter, plaintiff and defendant filed separate status reports on April 3, 2017, and April 4, 2017, respectively. (ECF Nos. 5, 6.) The next day, on April 5, 2017, the court by minute order set a status (pretrial scheduling) conference in this matter for April 27, 2017, at 10:00 a.m., before Judge Newman. (ECF No. 8.) The minute order was served on plaintiff by mail at his address of record.

At the April 27, 2017 status conference, attorney Thomas Landers appeared telephonically on behalf of defendant, and plaintiff failed to appear. Mr. Landers indicated that he had been


1 unable to reach or communicate with plaintiff since the case was removed to federal court.

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. Within fourteen (14) days of this order, plaintiff shall show cause why monetary
4 sanctions of \$250.00 should not be imposed based on plaintiff's failure to cooperate
5 with preparing and filing a joint status report, and plaintiff's failure to appear at the
6 status conference, as ordered by the court.
- 7 2. Failure to file a timely response to the order to show cause may result in dismissal of
8 the action with prejudice pursuant to Federal Rule of Civil Procedure 41(b), and will
9 be construed as plaintiff's non-opposition and consent to such a dismissal.
- 10 3. Alternatively, if plaintiff concludes that he no longer wishes to pursue this action at
11 this time, he may instead file a request for voluntary dismissal of the action.
- 12 4. If plaintiff elects to respond to the order to show cause, defendant may file a reply to
13 plaintiff's response within seven (7) days of that response's filing.
- 14 5. Discovery remains stayed pending further order of the court.

15 IT IS SO ORDERED.

16 Dated: April 28, 2017

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18 KENDALL J. NEWMAN
19 UNITED STATES MAGISTRATE JUDGE
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