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

CHERRY LEVIN,

Plaintiff,

No. C 07-06508 JSW

v.

GC SERVICES, LP, et al.

Defendants.

**ORDER (1) IMPOSING
SANCTIONS AND (2)
RESCHEDULING CASE
MANAGEMENT CONFERENCE**

The Court has received the response from Professional Recovery System, Inc.'s ("PRS") to the Court's Order to Show Cause. Counsel for PRS, Samuel Tong states that he was registered as an e-filer on or before July 24, 2008, but as support, he attaches an exhibit showing that he has a password for PACER. According to the Court's records, Mr. Tong did not register as an e-filer with this Court until March 3, 2009.

On January 27, 2009, Mr. Tong was mailed a copy of the Clerk's notice setting the Case Management Conference. To the extent Mr. Tong contends he filed a motion to dismiss, the Court has no record of any motion to dismiss filed by PRS. Moreover, the document attached as Exhibit 2 to his response, would not be a proper motion for several reasons. First, PRS has already filed an answer. Therefore, PRS has waived the ability to file a motion to dismiss. Second, the purported motion is not noticed for a hearing and does not contain any legal authority. If PRS intends to file a motion in the future, PRS must notice the motion to be heard on an available day at least thirty-five days in advance and must include the legal grounds, with supporting authority, on which it is moving.

1 Due to PRS's failure to attend the case management conference on February 20, 2009,
2 the Court HEREBY IMPOSES sanctions in the amount of \$500.00 payable to the Clerk of the
3 Court by no later than January 16, 2009. These sanctions are to be paid by counsel, and not his
4 client.

5 Although Plaintiff Cherry Levin ("Plaintiff") did not respond to the Order to Show
6 Cause, it has come to the Court's attention that Plaintiff was not served with the Clerk's notice
7 setting the case management conference. Therefore, the Court will not sanction Plaintiff at this
8 time. However, Plaintiff is advised that any future failures to appear or respond to Court orders
9 will be sanctioned.

10 The Court HEREBY RESETS the further case management conference for **April 10,**
11 **2009 at 1:30 p.m.** The parties shall file their case management statements by no later than
12 **April 3, 2009.**

13 **IT IS SO ORDERED.**

14
15 Dated: March 9, 2009



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

CHERRY LEVIN,
Plaintiff,

Case Number: CV07-06508 JSW

CERTIFICATE OF SERVICE

v.

GC SERVICES et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 9, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Cherry Levin
23 Rosewood Court
San Rafael, CA 94901

Dated: March 9, 2009



Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk