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United States District Court  
For the Northern District of California

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

GERARDO BENITO CHANG,  
Plaintiff,

No. C-09-1607 MMC

**ORDER DISCHARGING ORDER TO  
SHOW CAUSE**

v.

CALIFORNIA STATE UNIVERSITY, SAN  
FRANCISCO STATE UNIVERSITY, et al.,  
Defendants.

Before the Court are the parties' respective responses to the Court's October 16, 2009 Order to Show Cause, by which the parties were directed to show cause, in writing, why sanctions should not be imposed for their failure to appear at the regularly scheduled October 16, 2009 Case Management Conference.<sup>1</sup>

Having read and considered the parties responses to said Order, the Court finds sanctions are not warranted and hereby DISCHARGES the Order to Show Cause.

The Court notes, however, that plaintiff's representations as to his scheduling difficulties are not supported by the record. Although plaintiff correctly states he was required to appear before two federal judges on the same date, plaintiff is incorrect in

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<sup>1</sup> On October 14, 2009, the parties filed a stipulation to continue the conference. The stipulation was, in all respects, deficient in that it was both untimely and devoid of any showing as to good cause. See Civil L.R. 6-1, 6-2; see also Civil L.R. 7-12. Accordingly, the Court did not approve the stipulation. Moreover, the stipulation contained no provision for an order; with rare exception, not applicable to the instant matter, stipulations have no effect absent court approval. Additionally, in its October 7, 2009 Order Granting in Part and Denying in Part Defendant's Motion to Dismiss, this Court expressly reminded the parties that "[t]he Case Management Conference remains as scheduled for October 16, 2009 at 10:30 a.m." (See Order filed October 7, 2009 n.1.)


1 stating he was required "to be in two different courtrooms at once." (See Plaintiff's Reply to  
2 Order to Show Cause at 1:23.) As plaintiff himself observes, the hearing in Judge Illston's  
3 courtroom was scheduled to proceed an hour and a half earlier than the Case Management  
4 Conference before the undersigned.

5 Further, plaintiff's statement that the hearing in Judge Illston's courtroom was set  
6 "prior to [his] being notified" of the October 16, 2009 Case Management Conference before  
7 the undersigned (see id. at 1:20-22) is a misstatement of the record. As the dockets for the  
8 two cases demonstrate, this Court's order scheduling the October 16, 2009 Case  
9 Management Conference was filed July 28, 2009 (see Case No. 09-1607 Docket No. 14),  
10 whereas the Notice of Motion setting the October 16, 2009 hearing before Judge Illston  
11 was not filed until August 28, 2009 (see Case No. 09-2966 Docket No. 7).

12 Lastly, a Case Management Conference is hereby SET for January 29, 2010. A  
13 Joint Case Management Statement shall be filed no later than January 22, 2010.

14 **IT IS SO ORDERED.**

15 Dated: December 18, 2009

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17 MAKINE M. CHESNEY  
18 United States District Judge  
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