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UNITED STATES DISTRICT COURT  
Northern District of California

DEAN APOSTOL,

Plaintiff(s),

v.

TOM VILSACK,

Defendant(s).

No. C 09-1807 MEJ

**THIRD ORDER TO SHOW CAUSE  
ORDER VACATING HEARING RE:  
MOTION TO DISMISS**

On March 25, 2010, Defendant Tom Vilsack filed a Motion to Dismiss. (Dkt. #32.) The Court subsequently set Defendant's motion for a hearing on April 29, 2010, and ordered Plaintiff Dean Apostol to file any opposition by April 13, 2010. (Dkt. #39.) Plaintiff has failed to file an opposition. Based on the procedural background of this case, including two prior orders to show cause, (Dkt. ##23, 25), the Court finds that Plaintiff's conduct in this case may warrant dismissal with prejudice for failure to prosecute. Accordingly, the Court hereby ORDERS Plaintiff Dean Apostol to show cause why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 41 for failure to prosecute. Plaintiff shall file a declaration by April 26, 2010, and the Court shall conduct a hearing on May 6, 2010 at 10:00 a.m. in Courtroom B, 15th Floor, 450 Golden Gate Avenue, San Francisco, California. The April 29, 2010 hearing on Defendant's motion to dismiss is hereby VACATED.

**IT IS SO ORDERED.**

Dated: April 16, 2010

  
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Maria-Elena James  
Chief United States Magistrate Judge