



1 counsel seeks to honor rules of professional conduct and not directly contact Defendant,  
2 even though his counsel has not made a formal appearance. Defendant's counsel was not  
3 available for stipulation as explained in greater detail below.  
4

5 The Court has once previously rescheduled the initial case management conference  
6 pursuant to stipulation and several times on the Court's own intuitive.  
7

### 8 **BACKGROUND**

9 Upon reassignment of this matter to Judge White, the Court issued a Scheduling  
10 Order setting the initial CMC for January 22, 2010. (Dkt. #25.) In light of a pending  
11 motion to dismiss the Court continued the conference until March 12, 2010. (Dkt. # 29.)  
12 In response to a stipulated request to reschedule the CMC, (Dkt #32), the Court reset the  
13 conference to April 16, 2010. (Dkt. #35.) As the settlement agreement had still not been  
14 executed prior to the April 16<sup>th</sup> conference date, Plaintiff filed a Separate Case  
15 Management Conference State. (Dkt. 36.) Finding Plaintiff's separate statement  
16 insufficient, the Court ordered the conference rescheduled for April 30<sup>th</sup> with a joint case  
17 management conference statement due on April 23, 2010. (Dkt. #37.) By Tuesday April  
18 20, 2010, the parties had finally agreed to all terms, reduced their agreement to writing,  
19 and circulated the document for signatures. (Sperlein Declaration at ¶3.) Plaintiff signed  
20 the document and delivered it to Defense counsel early Friday morning, anticipating that it  
21 would be returned and the parties could appropriately inform the Court prior to the end of  
22 the day when the CMC Statement was due. (*Id.* at ¶4.) Plaintiff's counsel received a e-  
23 mail from defense counsel stating that he was not available and that the documents would  
24 not be returned executed that day. (*Id.* at ¶5.) Plaintiff's counsel wrote a letter to the  
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28

1 Court explaining the situation. (Dkt. #38.) This morning, via voice message the Court's  
2 deputy admonished Plaintiff's counsel for submitting the letter and instructed Counsel to  
3 address the Court in an appropriate manner.  
4

5 **REQUEST**

6 In light of all of the above, Plaintiff requests that the CMC scheduled for April 30,  
7 1010, be rescheduled and set for May 14, 2010. Plaintiff is confident it will be able to  
8 finalize the settlement agreement by that time.  
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10 Plaintiff apologizes to the Court for any lapses in procedure and failure to meet  
11 deadlines.  
12

13  
14 Dated: *April 26, 2010*

*/s/ Gill Sperlein* \_\_\_\_\_  
GILL SPERLEIN,  
Counsel for Plaintiff Io Group, Inc.

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18 **[PROPOSED] ORDER**

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20 Having read and considered the above Stipulated Request and having found just  
21 cause, **IT IS SO ORDERED.** If counsel for Defendant makes an appearance, a joint case  
22 management conference statement shall be due by May 7, 2010. If Defendant's counsel does not make an appearance, the parties  
23 shall file separate case management conference statements by that date. The case management conference shall be vacated if  
24 a dismissal is filed.

25 Dated: April 26, 2010

*Jeffrey S. White*  
\_\_\_\_\_  
JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE

26  
27 Plaintiff shall serve a copy of this Order on Defendant.  
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