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

HAMIDREZAZ KHAZAELI,

Plaintiff,

No. C 10-03920 WHA

v.

CITY OF CONCORD, KERRY CERLETTI,
DAVID LIVINGSTON, DAVID HUGHES,
PATRICK MURRAY, SHAHRIAR SHARIFI
KHOUS, a/k/a SHAWN SHARIFI,

Defendants.

ORDER OF DISMISSAL

Subsequent to much motion practice concerning his attorney’s motion to withdraw as counsel and an order granting that motion, plaintiff Hamidrezaz Khazaeli has stopped prosecuting this case. *First*, he failed to provide his contact information to the Court, so his former counsel was ordered to do so for him (Dkt. Nos. 73 and 80). *Second*, plaintiff failed to appear for either his deposition or the deposition of defendant Kerry Cerletti. Those had been rescheduled by court order for March 10 and 11 respectively (Dkt. No. 39). *Third*, plaintiff failed to participate in ADR telephonic conferences on March 1, 8, and 14. *Fourth*, plaintiff failed to respond to two motions to dismiss by defendants. *Fifth*, he failed to respond to the two resulting orders to show cause (Dkt. Nos. 94–95). Those orders to show cause required plaintiff to respond by April 15, 2011. He has not done so.

The order scheduling the depositions of plaintiff and defendant Cerletti stated, “Plaintiff must appear at both depositions. Failure to appear may lead to dismissal of this lawsuit” (Dkt.

1 No. 39). Moreover, *both* orders to show cause regarding plaintiff’s failure to respond to either of
2 defendants’ motions to dismiss stated clearly, “If plaintiff does not respond by April 15, 2011,
3 this case will be dismissed for failure to prosecute” (Dkt. Nos. 94–95).

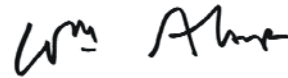
4 A letter sent to plaintiff from this Court’s alternative dispute resolution program has
5 recently been returned as “unclaimed” (Dkt. No. 96). Yet no other item served on plaintiff has
6 been returned as unclaimed or otherwise undeliverable. And even if the Court does not have
7 plaintiff’s proper address, he should be the one faulted for such mistake.

8 Defendants, in their motions to dismiss, also request monetary sanctions against plaintiff.
9 Defendant Shawn Sharifi requests \$2,267.67, the cost of his counsel attending the deposition of
10 plaintiff at which he did not appear. Defendants City of Concord, David Livingston, Kerry
11 Cerletti, David Hughes, and Patrick Murray request \$1,140.82, their costs for the depositions and
12 ADR teleconferences at which plaintiff did not appear. These requests are **DENIED**.

13 As plaintiff — after being clearly warned that dismissal was imminent — has failed to
14 prosecute this action, it is **DISMISSED WITH PREJUDICE**. Judgment will be entered in favor of
15 defendants and against plaintiff.

16 **IT IS SO ORDERED.**

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18 Dated: April 18, 2011.



19 WILLIAM ALSUP
20 UNITED STATES DISTRICT JUDGE
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