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

GREG CORSER,

Plaintiff,

v.

HANK SCHREEDER; MICHAEL
DATZOLD; IAN H. BERNER;
OFFICER WOODS; M. SPEDIACCI;
JENEANE R. KUCKER,

Defendants.
_____ /

No. C 16-7135 WHA (PR)

**ORDER TO SHOW CAUSE RE.
DISMISSAL AND COSTS**

(ECF No. 25)

Plaintiff, a California prisoner proceeding pro se, filed this civil rights action under 42 U.S.C. 1983. Plaintiff failed to appear at his properly noticed deposition. Plaintiff was then ordered to attend and participate in any properly-noticed deposition by defendants, and captioned that if he failed to do so, he would be ordered to pay defendants' costs for both depositions. Defendants have filed a letter indicating that plaintiff failed to appear at a properly noticed deposition for a second time. Indeed, he is no longer at the address he last provided to the court and defendants. Defendants request dismissal of the action pursuant to Rule 34 of the Federal Rules of Civil Procedure, as well as plaintiff's payment of \$726 to defendants for the cost of both depositions. Defendants have submitted no documentation or other evidence showing the cost they incurred.

No later than **November 17, 2017**, plaintiff shall show cause why the case should not be dismissed pursuant to Rule 37(d)(3) and why he should not be required to pay defendants' costs for both attempts at deposing him. **Failure to do so will result in the dismissal of this case**

1 **without prejudice and may also result in plaintiff being ordered to pay defendants' costs**
2 **for their two attempts to depose him.** Also by **November 17, 2017**, defendants shall submit
3 evidence proving that their attempts to depose him cost \$726. **If defendants fail to do so,**
4 **plaintiff will not be ordered to pay them any costs.**

5 Defendants indicate that they submitted their letter pursuant to a supplementary order
6 setting an initial case management conference. No such order or supplementary order has been
7 filed in this case. Any future requests from defendants must be made in a motion, not a letter.

8 The briefing schedule for dispositive motions is vacated and if necessary will be re-set
9 following the resolution of this discovery issue. Defendants' motion to this effect (ECF No. 25)
10 is **GRANTED**.

11 IT IS SO ORDERED.

12 Dated: October 25, 2017.

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15 WILLIAM ALSUP
16 UNITED STATES DISTRICT JUDGE
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