

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MOISES ZEPEDA, and others,  
Plaintiffs,

v.

PAYPAL, INC., and others,  
Defendants.

DEVINDA FERNANDO, and others,  
Plaintiffs,

v.

PAYPAL, INC.,  
Defendants.

Case No. 10-cv-02500 SBA

Case No. 10-cv-01668 SBA

**ORDER TERMINATING ORDER TO  
SHOW CAUSE**

Re: Dkt. No. 100

This Court long ago ordered attorney Marina Trubitsky and the plaintiffs in the *Fernando* action to show cause why they should not be sanctioned for their failure to appear at the second day of a Court-ordered settlement conference. Dkt. No. 100. The Court's order was motivated in part by concern about two potential conflicts: (1) conflicts between the class and class counsel in *Fernando* and two other cases, *Zepeda v. Paypal* and *Dunkel v. eBay, Inc.*, No. 12-cv-01452 EJD; and (2) conflicts between Trubitsky and local counsel David Hicks, who attended both days of the conference.

Case Nos. 10-cv-02500 and 10-cv-01668 SBA

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The Court’s concerns about the first conflict have been ameliorated by subsequent events. In *Zepeda*, the Court preliminarily approved settlement of class-wide claims. Dkt. No. 281. In *Dunkel*, the Court granted defendant’s motion to dismiss. Dkt. No. 101. There is no longer the same need to protect the class members in *Zepeda* and *Dunkel*.

As to any conflict between colleagues Trubitsky and Hicks, that conflict can best be resolved through the pending motions for attorneys’ fees at docket numbers 295, 296 and 297 in *Zepeda*.

The Court determines that the Order to Show Cause has been satisfied by Trubitsky’s response. She declared that her failure to appear was due to a family emergency caused by an illness to two family members. Dkt. Nos. 106, 106-1. The Court therefore finds that her failure was not willful or in bad faith. Her failure to appear did put her co-counsel David Hicks into a challenging position and caused expenses to be incurred by defendants and counsel. But under the circumstances, the Court finds that a sanction is not warranted.

**IT IS SO ORDERED.**

Dated: March 28, 2016

  
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NATHANAEL M. COUSINS  
United States Magistrate Judge