

United States District Court  
For the Northern District of California

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E-FILED on 9/2/2010

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MICHAEL A. DESANTIS, an individual, and  
RICHARD J. DESANTIS, an individual  
  
Plaintiffs,  
  
v.  
  
SECRETARY OF THE U.S. DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,  
  
Defendant.

No. C-07-03564 RMW

ORDER TO SHOW CAUSE WHY ACTION  
SHOULD NOT BE DISMISSED FOR  
FAILURE TO PROSECUTE

Plaintiffs seek review of the Secretary of Health and Human Services' denial of coverage under Medicare, 42 U.S.C. §1395ff et seq. The Amended Complaint was filed on April 19, 2010 and the defendant's Answer was filed on May 17, 2010. The Administrative Record was previously filed (Docket 14). Pursuant to the previously issued scheduling order (Docket #3), plaintiffs were to file their motion for summary judgment or for remand within thirty days of service of the Answer. More than thirty days have passed, yet plaintiffs have not filed their motion.

Accordingly, plaintiffs are hereby ordered to show cause why this action should not be dismissed for failure to prosecute and failure to comply with the court's scheduling order. A show cause hearing will be held on September 17, 2010 at 9:00 a.m. Plaintiffs shall file and serve a written response on or before September 10, 2010, failing which this action shall be dismissed. The

1 show cause hearing will be vacated if plaintiffs' motion for summary judgment is filed before  
2 September 17, 2010.

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DATED: 9/2/2010

*Ronald M Whyte*  
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RONALD M. WHYTE  
United States District Judge