

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court
For the Northern District of California

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

Vesta Strategies, LLC,
Plaintiff,
v.
Robert E. Estupinian, et al.,
Defendants.

NO. C 07-06216 JW

**ORDER VACATING CASE
MANAGEMENT CONFERENCE;
CLARIFYING THE COURT'S
DECEMBER 18 ORDER; SCHEDULING
HEARING FOR DISPOSITIVE MOTIONS**

Pursuant to the Court's December 18, 2008 Order, this case is scheduled for a Case Management Conference on January 12, 2009. In light of the parties' failure to provide a proposed schedule and some parties' representation that they require clarification of the December 18, 2008 Order, the Case Management Conference is VACATED. The parties are ORDERED to comply with the following:

- (1) To the extent the parties need clarification of the Court's December 18, 2008 Order, Plaintiff Vesta's Motion to Set Aside Order of Dismissal and Plaintiff Vesta and Third Party Defendant John Terzakis' Motion to Set Aside Default have been GRANTED. The parties' reliance on the caption of the Order, which reads, *inter alia*, "CONDITIONING SETTING ASIDE OF DEFAULT AND ORDER OF DISMISSAL ON PAYMENT OF SANCTION," to delay further proceeding is incorrect. The Court explicitly stated in its Order that the motions are granted. Further, the Court clearly stated that as a form of sanctions for delaying the litigation,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Vesta and Terzakis were required to pay the other parties' reasonable fees and costs.
(See Docket Item No. 152 at 2, 6, 7, 8.)

By this Order, the Court strikes the clearly typographical error in the caption of the December 18, 2008 Order. Pursuant to that Order, Vesta and Terzakis are no longer in default and must proceed to litigate this action. Consistent with the December 18 Order, Plaintiff Vesta and Third Party Defendant Terzakis are ordered to pay the Mutual Vision Defendants' fees and costs as of September 15, 2008 up until the December 18, 2008 Order.

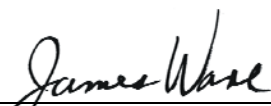
(2) To the extent Vesta and Terzakis dispute the amount of fees and costs requested in the Mutual Defendants' Proposed Order for Payment of Sanctions,¹ they may file an opposition on or before **January 16, 2009**. The Court will take the matter under submission for consideration of the amount requested.

(3) To advance this case, the Court sets **March 9, 2009 at 9 a.m.** as a hearing date for dispositive motions which were previously filed but terminated by the Court in light of the defaults and dismissal Orders. The parties shall file and notice their motions in accordance with the Civil Local Rules of the Court.

(4) The Court also sets a Further Case Management Conference on **March 9, 2009 at 10:00 a.m.** On or before **February 27, 2009**, the parties shall file a Joint Case Management Statement. The Statement shall include, among other things, a good faith discovery plan with a proposed date for the close of all discovery.

None of these dates may be modified by the parties without prior order from the Court.

Dated: January 6, 2009



JAMES WARE
United States District Judge

¹ (See Docket Item No. 153.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

- Alan Louis Martini amartini@smtlaw.com
- Aron J. Frakes ajfrakes@mwe.com
- Aron J. Frakes ajfrakes@mwe.com
- Brian Michael O'Dea bodea@randicklaw.com
- Daniel E. Alberti dalberti@mwe.com
- Jeffrey Bugbee Harris harris@scmv.com
- Jeffrey Bugbee Harris harris@scmv.com
- Kevin Richard Martin kmartin@randicklaw.com
- Patrick E. Guevara pguevara@randicklaw.com
- Paul Evans Chronis pchronis@mwe.com
- Peter J. Drobac pdrobac@mwe.com
- Ronald J. Cook rjc@wsblaw.net

Dated: January 6, 2009

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy