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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CLEOPHAS WHITE,)
)
Plaintiff,)
)
v.)
)
WAL-MART STORES, INC.,)
)
)
Defendant.)
_____)

Case No.: C 08-00843 JF (PVT)

**ORDER CONTINUING PLAINTIFF
CLEOPHAS WHITE'S MOTION TO
COMPEL**

Plaintiff Cleophas White proceeding *pro se* moved to compel defendant Wal-Mart Stores, Inc. to further respond to interrogatories. Originally, the motion was scheduled to be heard on August 19, 2008. However, Mr. White sought a continuance in light of his personal circumstances. This court granted the continuance and scheduled the hearing for October 7, 2008.¹


In the meantime, plaintiff failed to appear for a case management conference held before the district court on September 12, 2008. As a result, the district court has scheduled a hearing on an

¹ The holding of this court is limited to the facts and the particular circumstances underlying the present motion.

1 order to show cause re dismissal for October 31, 2008 at 10:30AM. As of August 11, 2008, the date
2 on which defendant Wal-Mart filed its separate case management conference statement, defendant
3 Wal-Mart had not been served pursuant to Rule 4(h).² As such, plaintiff's motion is not ripe for
4 adjudication. Accordingly, plaintiff's motion to compel is continued to November 18, 2008 at
5 10AM.

6 IT IS SO ORDERED.

7 Dated: *October 1, 2008*

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9 PATRICIA V. TRUMBULL

10 United States Magistrate Judge

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28 ² Defendant Wal-Mart previously moved to dismiss because of defective service upon the corporation. However, the district court denied the motion to dismiss and ordered proper service of the summons and complaint. To date, it appears that service has not occurred.

1 Copies of order mailed on October 1, 2008 to the following:

2 Cleophas White
3 80 Market Street
4 San Jose, CA 95113

5 _____ EHP _____
6 Chambers of Magistrate Judge
7 Patricia V. Trumbull
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