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

Fibertrek, Inc., et al.,

NO. C 08-03415 JW

Plaintiffs,

**ORDER TO SHOW CAUSE
RE: SETTLEMENT; CONTINUING
PRELIMINARY PRETRIAL
CONFERENCE AS TO NON-SETTLING
DEFENDANT**

v.

Preferred Corporate Services, Inc., et al.,

Defendants.

On February 16, 2010, Plaintiffs informed the Court that the above-entitled matter has reached a settlement as to all Defendants except Douglas Gregg, who Plaintiffs are informed and believe is deceased. (See Notice of Partial Settlement, Docket Item No. 83.) In light of the settlement, the Court vacates all trial and pretrial dates as to the settling Defendants, including the Preliminary Pretrial Conference scheduled for February 22, 2010. On or before **March 12, 2010**, the parties shall file a stipulated dismissal pursuant to Federal Rule of Civil Procedure 41(a).

If a dismissal is not filed by the specified date, all parties shall appear in Courtroom No. 8, 4th Floor, United States District Court, 280 South First Street, San Jose, Ca. on **March 22, 2010 at 9 a.m.** and to show cause, if any, why the case should not be dismissed pursuant to Fed. R. Civ. P. 41(b). On or before **March 12, 2010**, the parties shall file a joint statement in response to the Order to Show Cause. The joint statement shall set forth the status of the activities of the parties for finalizing the settlement and how much additional time is requested to finalize and file the dismissal. If a voluntary dismissal is filed as ordered, the Order to Show Cause hearing will be automatically vacated.

1 Plaintiffs further represent that they intend to substitute the Estate of Douglas Gregg as a
2 Defendant in this action, and they request from the Court a ninety-day continuance of the
3 Preliminary Pretrial Conference to allow such substitution to occur and for the Estate of Douglas
4 Gregg to respond to the complaint or for a default to be entered. (Notice of Partial Settlement at 2.)
5 The Court finds that such a lengthy continuance is unnecessary to merely substitute a Defendant.
6 However, the Court does find good cause to provide the parties with some additional time for that
7 purpose.

8 Accordingly, the Court CONTINUES the Preliminary Pretrial Conference as to Defendant
9 Douglas Gregg to **March 22, 2010 at 10 a.m.**, after the hearing on the Order to Show Cause re
10 Settlement. On or before **March 12, 2010**, the remaining parties shall file a Joint Preliminary
11 Pretrial Statement. The Statement shall include, among other things, an updated on the parties'
12 settlement effort if any, and the parties' proposed schedules as to how the case should proceed.

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Dated: February 17, 2010



JAMES WARE
United States District Judge

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

2 Brian Michael Affrunti baffrunti@bwslaw.com
3 Claudia Carolina Bohorquez ccblaw@aol.com
4 Douglas W. Dal Cielo ddalcielo@bwslaw.com
5 Robert John Huston bob_huston@yahoo.com

6 **Dated: February 17, 2010**

Richard W. Wieking, Clerk

7
8 **By: /s/ JW Chambers**
9 **Elizabeth Garcia**
10 **Courtroom Deputy**

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