

1
2
3
4
5
6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

10 Wahluke Produce, Inc.,

NO. C 08-04428 JW

11 Plaintiff,

**ORDER TO SHOW CAUSE RE:
DISMISSAL**

12 v.

13 Coyuque Produce, et al.,

14 Defendants.
_____ /

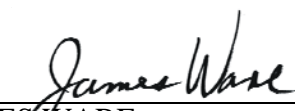
15 Plaintiff filed this action on September 23, 2008. (See Docket Item No. 1.) Plaintiff filed a
16 Case Management Statement on April 3, 2009 representing that Defendants have been served, but
17 have failed to appear. (See Docket Item No. 4.) However, no proof of service has been filed in this
18 case. Thus, the Court cannot determine whether Defendants have been served in accordance with
19 Fed. R. Civ. P. 4(m).

20 Accordingly, the Court VACATES the **April 13, 2009** Case Management Conference and
21 ORDERS Plaintiff to appear in Courtroom No. 8, 4th Floor, United States District Court, 280 South
22 First Street, San Jose, California on **May 4, 2009 at 9:00 a.m.** to show cause, if any, by actual
23 appearance in Court, and by certification filed with the Court at least ten (10) days prior to
24 appearance date, why this case should not be dismissed for failure to timely serve Defendants. The
25 certificate shall set forth in factual summary the reason Plaintiff has failed to file a proof of service
26 in this case and the steps Plaintiff is taking, if any, to pursue the action.
27
28

1 If Plaintiff fails to file the certification on or before **April 24, 2009**, the May 4, 2009 hearing
2 will be vacated automatically and the case will be dismissed for lack of prosecution pursuant to Rule
3 41(b) of the Federal Rule of Civil Procedure.

4 Failure to comply with any part of this Order will be deemed sufficient grounds to dismiss
5 this action.

6
7 Dated: April 8, 2009



JAMES WARE
United States District Judge

United States District Court

For the Northern District of California

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

2 Marion I Quesenbery marion@rjlaw.com
3 Randal Jason Read jason@rjlaw.com

4 **Dated: April 8, 2009**

Richard W. Wieking, Clerk

5
6 **By: /s/ JW Chambers**

Elizabeth Garcia
Courtroom Deputy

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28