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E-FILED 4/8/2009

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MARTIN PEDRAZA, VALENTIN PEDRAZA,
and FELIPE SALINAS,

No. C08-04710 HRL

Plaintiffs,

**ORDER SETTING FURTHER CASE
MANAGEMENT CONFERENCE**

v.

REUBEN BORG dba BORG REDWOOD
FENCES,

Defendant.

_____ /


The court held a case management conference on April 7, 2009. At the conference, Julie Borg and Cele Gutierrez, who are not attorneys, purported to appear on behalf of defendant Borg Redwood Fences, which, they say, is a corporation. Borg Redwood Fences is advised that it may not appear pro se or through its corporate officers, but must retain counsel to represent it in this lawsuit. See Civ. L.R. 3-9(b) (“A corporation, unincorporated association, partnership or other such entity may appear only through a member of the bar of this Court”); see also Rowland v. California Men’s Colony, 506 U.S. 194, 201-02 (1993) (“It has been the law for the better part of two centuries . . . that a corporation may appear in the federal courts only through licensed counsel”); In Re Highley, 459 F.2d 554, 555 (9th Cir. 1972) (“A corporation can appear in a court proceeding only through an attorney at law”). Borg Redwood Fences is further advised that it retains all of the obligations of a litigant, and its failure to obtain an

1 attorney may lead to an order striking its pleadings or entry of its default.

2 A further case management conference will be held on **May 5, 2009, 1:30 p.m.** in
3 Courtroom 2. The parties shall meet and confer and file a joint case management conference
4 statement no later than **April 28, 2009**. Plaintiffs' lead counsel is directed to appear at the May
5 5, 2009 conference in person – or risk sanctions for the failure to do so.¹ Civ. L.R. 16-10(a).

6 SO ORDERED.

7 Dated: April 8, 2009

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9 _____
10 HOWARD R. LLOYD
11 UNITED STATES MAGISTRATE JUDGE

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24 ¹ The case management conference was continued twice at plaintiffs' request,
25 with one 30-day continuance being made because plaintiffs said that they intended to amend
26 their complaint. However, it was not until the evening before the conference that plaintiffs
27 purported to file an amended pleading to add a new defendant. See Woodruff v. Mueller,
28 No. C01-02307VRW, 2004 WL 724886 *5 (N.D. Cal., Mar. 24, 2004) (citing Moore v.
Indiana, 999 F.2d 1125 (7th Cir. 1993) (“A plaintiff has a right to amend his pleading ‘once
as a matter of course at any time before a responsive pleading is served.’ FRCP 15(a). . . .
But leave to amend must be obtained to add a new defendant, even before a responsive
pleading has been served.”)). Moreover, plaintiffs' counsel failed to appear at the conference
due to a reported calendaring error at their offices. Instead, they sent a substitute attorney,
who had no apparent connection with, or knowledge of, this case.

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5:08-cv-4710 Notice has been electronically mailed to:

Adam Wang adamqwang@gmail.com, alpedersen@gmail.com, rosilenda@gmail.com
Adam Lee Pedersen alpedersen@gmail.com

Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the court's CM/ECF program.

5:08-cv-4710 Copy of this document mailed to:

Attention: Cele Gutierrez
Borg Redwood Fences
575 Boulder Court
Pleasanton, CA 94566