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

David Giusto,

NO. C 09-03357 JW

Plaintiff,

**ORDER TO SHOW CAUSE RE:  
DISMISSAL**

v.

Washington Mutual Bank FA, et al.,

Defendants.

\_\_\_\_\_ /

On July 22, 2009, Plaintiff filed his Complaint. (Docket Item No. 22.) Pursuant to Fed. R. Civ. P. 4(m), Plaintiff had until November 19, 2009 to serve Defendants. To date, the record reflects that Defendants have not been served and there is no motion by Plaintiff for an extension of time to serve Defendants. In fact, Plaintiff has otherwise failed to communicate with the Court and failed to comply with the Clerk’s two notices regarding his failure to register as an e-filer and e-file his Complaint. (See Docket Item Nos. 3, 4.) It appears that Plaintiff has abandoned this litigation.

Accordingly, the Court hereby orders Plaintiff to appear in Courtroom No. 8, 4th Floor, United States District Court, 280 South First Street, San Jose, Ca. on **January 25, 2010 at 9:00 a.m.** to show cause, if any, by actual appearance in Court, and by certification filed with the Court on or **January 15, 2010**, why this case should not be dismissed for failure to prosecute. The certificate shall set forth in factual summary the reason Defendants have not been served and what steps Plaintiff is taking to prosecute the action. If Plaintiff fails to file the certification, the January 25 hearing will be vacated automatically and the case will be dismissed.

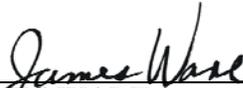
**United States District Court**  
For the Northern District of California

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Failure to comply with any part of this Order will be deemed sufficient grounds to dismiss this action pursuant to Fed. R. Civ. P. 41(b).

In light of this Order, the January 11, 2010 Case Management Conference is VACATED.

Dated: January 4, 2010

  
\_\_\_\_\_  
JAMES WARE  
United States District Judge

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

2 John Wesley Villines, john@jvllaw.net

3 John Wesley Villines  
4 JV Law  
5 PO Box 580049  
6 Modesto, CA 95358-0002

7 **Dated: January 4, 2010**

**Richard W. Wieking, Clerk**

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

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