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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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JUAN CARLOS CUELLAR, et al.

Case No.: C 09-4047 PSG

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Plaintiffs,

**ORDER THAT ANSWER BE
STRICKEN, DEFAULT ENTERED,
AND ALLOWING PLAINTIFFS TO
APPLY FOR DEFAULT JUDGMENT**

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v.

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ANTHONY FIDEL ALAMILLO, et al.,

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Defendants.

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A case management conference was scheduled in this matter for December 28, 2010.

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Counsel for Defendants did not appear. Defendants' counsel also failed to appear at the case

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management conference scheduled for December 14, 2010. Additionally, Defendants have failed

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on four separate occasions to file a timely Case Management Statement. (*See* Clerk's Notice

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Continuing Case Management Conference, September 9, 2010; Order Vacating Preliminary

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Pretrial Conference, October 28, 2010; Order to Show Cause Why Case Should Not Be Dismissed

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for Failure to Prosecute, December 15, 2010; Order Dissolving December 15, 2010 Order to

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Show Cause, December 20, 2010).

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On December 28, 2010, the court ordered Defendants to respond in writing by January 4,

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2011 to show cause why their answer should not be stricken, default entered, and a default

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judgment issued against them in this manner. (*See* Order to Show Cause Why Answer Should Not

1 Be Stricken, Default Entered, and a Default Judgment Issued Against Defendants). Defendants
2 have not responded to that order.

3 If a defendant has failed to defend and that failure is shown by affidavit or otherwise, then
4 the clerk must enter the defendant's default. Fed. R. Civ. P. 55(a). The clerk or the court, upon
5 the plaintiff's request, may then issue a default judgment against the defendant. Fed. R. Civ. P.
6 55(b). Accordingly,

7 IT IS HEREBY ORDERED that Defendants' answer is stricken.

8 IT IS FURTHER ORDERED that Defendants' default will be entered.

9 IT IS FURTHER ORDERED that Plaintiffs shall apply for a default judgment no later than
10 January 21, 2011.

11 Dated: January 7, 2011

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13 PAUL S. GREWAL
14 United States Magistrate Judge

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