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

Felisa Estrada, et al.,

NO. C 09-05618 JW

Plaintiffs,

v.

**ORDER VACATING CASE
MANAGEMENT CONFERENCE;
SETTING DEADLINE TO FILE MOTION
FOR DEFAULT JUDGMENT**

Salyer American Fresh Foods, et al.,

Defendants.

_____ /

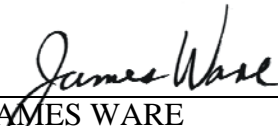
This case is scheduled for a Case Management Conference on March 29, 2010. Pursuant to the Federal Rules of Civil Procedure and Local Rules of this Court, the parties conferred and duly submitted a Joint Case Management Statement. (hereafter, "Statement," Docket Item No. 92.) In the Statement, Plaintiffs represent that the following parties were served on February 27, 2010, but have yet to file responsive pleadings: (1) Salyer American Fresh Foods, Inc., (2) SK Frozen Foods, LLC, (3) The Scott Salyer Revocable Trust, (4) Scott Salyer, individually and dba Salyer American (collectively, "Salyer Defendants"). (Statement at 2.) Plaintiffs further represent that due to the Salyer Defendants' failure to appear,¹ the parties have not been able to conclude meaningful discussions about issues pertaining to discovery, narrowing of issues, ADR, scheduling and trial. (Id.) The parties jointly request a continuance of the Case Management Conference until a date after the Salyer Defendants have appeared. (Id.)

¹ The Court notes that the time for the Salyer Defendants to serve responsive pleadings has passed. See Fed. R. Civ. P. 12(a)(1). Accordingly, on or before **April 12, 2010**, Plaintiffs shall file the appropriate motion for entry of default as to the Salyer Defendants if they have not yet made an appearance in the action.

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In light of the Salyer Defendants' failure to appear, the Court VACATES the Case Management Conference. In its Order addressing the pending Motions to Dismiss, the Court will set a new Case Management Conference, if necessary, as to the Defendants who have made appearances.

Dated: March 24, 2010



JAMES WARE
United States District Judge

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

- 2 Bernard James Fitzpatrick bjfitzpatrick@fandslegal.com
- Charles Swanston cswanston@fandslegal.com
- 3 Daniel F. Wake dwake@siwlegal.com
- Joseph N. Demko JND@JMBM.com
- 4 Robert B. Kaplan rbk@jmbm.com
- Robert E. Schaberg rschaberg@sflaw.com
- 5 Stephen Kirk Ingebretsen kirk@siwlegal.com
- William G. Gaede wgaede@mwe.com
- 6 William Martin Woolman wwoolman@aalrr.com

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Dated: March 24, 2010

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy