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SOUTHERN DISTRICT OF CALIFORNIA
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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SANDI RUSH,

Plaintiff,

vs.
APPLE SOCAL, LLC; MESA
SHOPPING CENTER - EAST, LLC,

Defendants.

CASE NO. 10cv341 WQH (JMA)
ORDER

HAYES, Judge:

On February 11, 2010, Plaintiff Sandi Rush initiated this action by filing her Complaint against Defendants Mesa Shopping Center - East, LLC ("Mesa") and Apple SoCal, LLC, doing business as Applebee's Neighborhood Grill & Bar ("Applebee's"). (Doc. # 1). On April 6, 2010, Mesa filed its answer. (Doc. # 7). On April 27, 2010, Plaintiff filed a notice informing the Court that the case had been settled. (Doc. # 10). On March 4, 2010, Plaintiff filed a Notice of Voluntary Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1). (Doc. # 12). The Notice requested that the Court "dismiss the above entitled action, with prejudice, as to all parties." *Id.* at 2. The Notice was signed only by Plaintiff. *Id.*

On May 10, 2010, the Court issued an Order to Show Cause which stated in part:

Pursuant to Federal Rule of Civil Procedure 41(a)(1),
[T]he plaintiff may dismiss an action without a court order by filing:

- (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or
- (ii) a stipulation of dismissal signed by all parties.

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Plaintiff's notice does not meet the requirements of Federal Rule of Civil Procedure 41(a)(1) as to Mesa. The parties are hereby **ORDERED TO SHOW CAUSE** why this case should not be dismissed. Any response shall be filed **on or before June 1, 2010**. In the event that no response is filed, the case will be dismissed without prejudice and closed.

(Doc. # 13).

On May 13, 2010, Plaintiff filed a Notice of Withdrawal of Document withdrawing the improper Notice of Voluntary Dismissal. (Doc. # 14). On May 14, 2010, Plaintiff and Defendant Applebee's filed a Joint Motion for Dismissal. (Doc. # 15). The Court granted the Joint Motion for Dismissal on May 18, 2010. (Doc. # 16).

Neither Plaintiff nor Defendant Mesa filed any response to the Order to Show Cause. **IT IS HEREBY ORDERED THAT** this case is **DISMISSED** without prejudice as to Defendant Mesa. The Clerk of the Court shall close the case.

DATED: 6/24/10


WILLIAM Q. HAYES
UNITED STATES DISTRICT JUDGE