1 2 3 4 5 6

FILED 2010 JUN 24 AM 11: 49 CLERK US DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

SANDI RUSH,

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

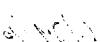
27

Plaintiff.

CASE NO. 10cv341 WQH (JMA)

APPLE SQCAL, LLC; MESA SHOPPING CENTER - EAST, LLC.

Defendants.



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.

28

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//0

UNITED STATES DISTRICT JUDGE