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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**
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13 JOHN JUNGERS,

14 Plaintiff,

15 v.

16 CITY OF SAN DIEGO, et al.,

17 Defendants.
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Case No.: 21-CV-0829 W (MSB)

**ORDER (1) VACATING JANUARY
23, 2023 HEARING AND
(2) DISMISSING DOE
DEFENDANTS WITHOUT
PREJUDICE**

20 On December 20, 2022, this Court issued an Order to Show Cause (“OSC”) why
21 this case should not be dismissed for failure to serve the Doe Defendants. (*See Dec. 20,*
22 *2022 OSC* [Doc. 35] 2:14–15.) The Order set a hearing for January 23, 2023 at 10:00
23 a.m. and, in preparation for the hearing, ordered Plaintiff to file a brief by January 18,
24 2023 explaining why the case should not be dismissed. (*Id.* 2:14–18.) The order also
25 warned Plaintiff that failure to file the brief by the deadline would result in the hearing
26 being vacated and the Doe Defendants dismissed without prejudice. (*Id.* 2:18–20.)
27 Plaintiff failed to comply with the order.
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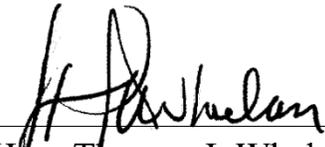
1 Plaintiff's failure to comply with the December 20, 2022 OSC is the second time
2 Plaintiff has failed to comply with an order of this Court. On November 21, 2022, this
3 Court granted Attorney Pena's unopposed motion to withdraw and ordered Plaintiff to
4 file a notice verifying his mailing address and e-mail address. (*Order Granting Mot. to*
5 *Withdraw* [Doc. 33] 4:1–8.) Plaintiff did not comply with that order.

6 It is also important to point out that the December 20, 2022 OSC was the third
7 OSC regarding Plaintiff's failure to serve the Doe Defendants. (*See Jan. 26, 2022 OSC*
8 *[Doc. 22]; Sept. 29, 2022 OSC [Doc. 29].*) Additionally, the basis for Plaintiff's
9 attorney's motion to withdraw and the order granting that motion was Plaintiff's failure
10 to respond to his attorney's attempts to contact him regarding the case. (*See Order*
11 *Granting Mot. to Withdraw* [Doc. 33] 3:16–23.)

12 In light of the foregoing, the Court **VACATES** the January 23, 2023 OSC hearing
13 and **ORDERS** the Doe Defendants **DISMISSED WITHOUT PREJUDICE**. In light of
14 the foregoing, the Clerk is **ORDERED** to close the District Court case file.

15 **IT IS SO ORDERED**

16 Dated: January 19, 2023

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19 Hon. Thomas J. Whelan
20 United States District Judge
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