

1 **II. MOTION TO VACATE SETTLEMENT CONFERENCE**

2 The Court finds that there are sufficient grounds to grant defendants' Motion. Defendants are
3 correct that, upon filing their notice of appeal, this Court was divested of jurisdiction to proceed with the
4 settlement conference. *See Chuman v. Wright*, 960 F.2d 104, 105 (9th Cir. 1992). Plaintiff is also correct
5 that courts are not divested of jurisdiction if the appeal is frivolous or forfeited such determination.
6 However, the district court did not certify that defendants' appeal was frivolous or forfeited. "In the
7 absence of such certification, the district court is automatically divested of jurisdiction to proceed with
8 trial pending appeal." *Chuman*, 960 F.2d at 105. Plaintiff did not provide any authorities to the
9 contrary, or that would otherwise allow for the settlement conference to proceed. Upon defendants'
10 Notice of Appeal (ECF No. 100), the Court is divested of jurisdiction to proceed with the January 7,
11 2025, settlement conference.

12 ACCORDINGLY,

13 **IT IS ORDERED that:**

- 14 1. The *Motion to Vacate Settlement Conference* (ECF No. 104) is GRANTED.
15 2. The January 7, 2025 Settlement Conference (ECF No. 99) is VACATED.
16 3. The parties are directed to file a Motion or Stipulation regarding the Settlement Conference
17 within 21 days after determination of their appeal.

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19 DATED this 3rd day of January 2025.

20 IT IS SO ORDERED.

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24 Hon. Maximiliano D. Couvillier III
25 United States Magistrate Judge

1 **NOTICE**

2 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
3 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
4 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
5 may determine that an appeal has been waived due to the failure to file objections within the specified
6 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985).

7 This circuit has also held that (1) failure to file objections within the specified time and (2)
8 failure to properly address and brief the objectionable issues waives the right to appeal the District
9 Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d
10 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).
11 Pursuant to LR IA 3-1, the plaintiff must immediately file written notification with the court of any
12 change of address. The notification must include proof of service upon each opposing party's attorney,
13 or upon the opposing party if the party is unrepresented by counsel. Failure to comply with this rule may
14 result in dismissal of the action.

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