



1 revision, despite defense counsel's attempts to contact him on January 26 and 27, 2012. *See generally*  
2 Opsahl Declaration at ¶¶3-5.

3 Defendant filed a Notice (Dkt. #102), informing the court why no stipulation had been filed.  
4 The court set a status hearing on February 9, 2012. *See* Dkt #103. On February 6, 2012, counsel filed  
5 the Stipulation (Dkt. #104), and the court approved it in an Order (Dkt. #105) entered February 7, 2012.  
6 The Order outlines Plaintiff's document production obligations. Additionally, it recognizes that  
7 Plaintiff's computer server is inaccessible because it is disconnected from power, the Internet, and any  
8 other computer network, but it memorializes Plaintiff's agreement to: (a) make a good faith effort to  
9 access the server to complete the document production; and (b) provide a sworn declaration describing  
10 such efforts if it cannot comply with its production deadlines. *See* Dkt. #105 at ¶6. Defendant  
11 represents that Plaintiff did not comply with the Stipulation in a timely manner, and on February 8,  
12 2012, Plaintiff produced only redacted copies of some of its bank statements. Defendant did not receive  
13 the *Hoehn* deposition transcript or other documents outlined in the Order. *See* Opsahl Declaration at  
14 ¶6. The parties' stipulation (Dkt. # 104) did not request that the status hearing be vacated. Counsel for  
15 Defendant appeared, but counsel for Plaintiff did not. As the parties had submitted the stipulation the  
16 court addressed at the prior hearing, the court inferred counsel for Plaintiff believed the matter had been  
17 resolved and that no hearing was required, and so advised counsel for the Defendant. As a result, the  
18 scheduled February 9, 2012, status conference did not go forward.

19 On February 15, 2012, counsel for Defendant wrote to Plaintiff's counsel requesting compliance  
20 with the Stipulation. Plaintiff's counsel responded that he would respond "as soon as possible. If I can  
21 do so today, I will." Defense counsel attempted to contact Plaintiff's counsel three additional times,  
22 without response. Defendant has still not received Plaintiff's court-ordered document production. *Id.*  
23 at ¶¶8-11.

24 Accordingly,

25 **IT IS ORDERED:**

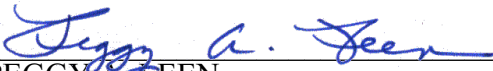
- 26 1. Defendant's Motion for Order to Show Cause (Dkt. #106) is **GRANTED**  
27 2. Plaintiff shall show cause, in writing, on or before **4:30 p.m., March 16, 2012**, why it  
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should not be held in contempt of court and sanctioned for failing to comply with the Court's Order (Dkt. #105).

2. A hearing on Defendant's request for sanctions is scheduled for **March 20, 2012, at 9:00 a.m** before the undersigned.

Dated this 2nd day of March, 2012.

  
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PEGGY A. LEEN  
UNITED STATES MAGISTRATE JUDGE