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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GRACE MILES,

Appellant,

v.

ROYCE LEE MAKISHIMA, et al.,

Appellees.

No. C-08-4091 MMC

**ORDER DENYING REQUEST FOR
EXTENSION OF TIME; INFORMING
APPELLANT THAT NO STAY IS IN
EFFECT; ORDER TO SHOW CAUSE**

Before the Court are appellant Grace Miles's ("Miles") "Request for Extension of Time to File," filed February 17, 2009, by which Miles requests an extension of time in which to file her opening brief in the above-titled action, and Miles's "Notice of Filing, Stay," filed February 20, 2009, by which Miles appears to assert that the action has been automatically stayed in light of Miles's having filed a petition for bankruptcy. Defendants have filed opposition to Miles's Request for Extension of Time. Having read and considered the parties' respective submissions, the Court rules as follows.

1. Miles's Request for Extension of Time is hereby DENIED, for the reason that Miles has failed to show good cause for the relief requested. In particular, Miles's statement that she will be having surgery during the week of February 23, 2009 and that she was "in severe pain" during the week of February 16, 2009 (see Miles Decl. ¶ 4) does not constitute good cause for an extension of the February 20, 2009 deadline for Miles to file her opening brief, particularly given the two previous extensions Miles has been granted

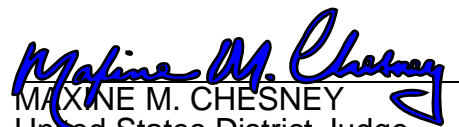
1 and the period of more than four months that she has had in which to prepare her brief.
2 Further, although Miles states she is seeking representation (see id. ¶ 11), Miles fails to
3 provide any evidence of any efforts she has undertaken in such regard, and, consequently,
4 Miles has failed to demonstrate good cause for an extension of time in which to conduct her
5 search. Lastly, Miles's statements concerning computer problems "[i]n December" (see id.
6 ¶ 16), "[t]wo weeks ago while in the law library" (see id. ¶ 18) and in September (see id. Ex.
7 1) likewise do not constitute good cause for an extension, for the reason that Miles has
8 failed to demonstrate such problems were anything more than isolated incidents, and, as
9 noted, Miles has had over four months in which to prepare her opening brief in the instant
10 action.¹

11 2. Miles is hereby informed that, despite her having filed a petition for bankruptcy,
12 the instant action is not subject to the automatic stay provided by 11 U.S.C. § 362(a), for
13 the reason that the action has not been brought against Miles. See 11 U.S.C. § 362(a)(1)
14 (providing bankruptcy petition operates as automatic stay of "action or proceeding against
15 the debtor"). In particular, Miles is the appellant herein and was the plaintiff in the
16 underlying action.

17 3. As the deadline for Miles to file her opening brief was February 20, 2009 (see
18 Order filed Dec. 15, 2008, at 2), and, to date, no such brief has been filed, Miles is hereby
19 ORDERED TO SHOW CAUSE, in writing and no later than March 13, 2009, why the
20 instant action should not be dismissed for failure to prosecute. If Miles fails to timely
21 respond to the Court's order herein, the instant action will be dismissed.

22 **IT IS SO ORDERED.**

23
24 Dated: February 27, 2009


MAXINE M. CHESNEY
United States District Judge

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28 ¹Further, the Court notes that Miles's computer problems have not prevented her
from preparing fifteen motions, requests, objections, and other filings in the instant action,
all prior to the filing of her opening brief.