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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAIN RE JUAN M. MORENO,
Debtor/Appellant.No. C 10-1027 PJH
Bankr. Case No. 09-48275**ORDER RE: PERFECTION
OF RECORD; DISCHARGING
OSC**

On June 4, 2010, the court issued an order to show cause noting that this bankruptcy appeal was filed months ago, on March 10, 2010, and that the record on appeal should have been designated and perfected by now in accordance with Federal Rule of Bankruptcy Procedure 8006. The parties were ordered to respond to the order to show cause **no later than Friday June 18, 2010**, regarding (1) the status of the record; and (2) assuming that appellant had failed to perfect the record to date, why this appeal should not be dismissed for failure to prosecute.

On June 11, 2010, the Chapter 13 trustee responded, noting that after designating the transcript on appeal, the appellant failed to follow through in requesting and procuring the transcript in violation of Federal Rule of Bankruptcy Procedure 8006, and therefore the record had not yet been perfected. The trustee requested that the appeal be dismissed for failure to prosecute. On June 21, 2010, debtor/appellant, who is represented by counsel, filed a response to the court's order to show cause, with no explanation regarding the untimeliness of his response, which was due June 18, 2010. Appellant further failed to follow this court's local rules, which required that a courtesy copy of his response be delivered to chambers no later than noon on June 22, 2010.

Moreover, the court finds appellant's explanation for his delay and failure to

1 prosecute the appeal incomprehensible and entirely inadequate. Federal Rule of
2 Bankruptcy Procedure 8006 is clear in that it required appellant to “immediately” request
3 the transcript after he filed his designation of the record on March 15, 2010, which he
4 admittedly did not do. In spite of the inadequate explanation, the court will nevertheless
5 discharge the order to show cause and afford appellant one final opportunity to perfect the
6 record. If appellant desires to proceed with the appeal, he is ORDERED to request and
7 procure the transcripts on an expedited basis and at his expense, if necessary, such that
8 the record on appeal is fully perfected no later than **thirty days** from the date of this order.
9 If he fails to do so, the court will dismiss the appeal for failure to prosecute.

10 **IT IS SO ORDERED.**

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12 Dated: June 24, 2010



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PHYLLIS J. HAMILTON
United States District Judge

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cc: Clerk of the Bankruptcy Court, Oakland Div.
Honorable Leslie Tschaikovsky

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