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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TERRANCE MOODY,

Plaintiff,

v.

METAL SUPERMARKET FRANCHISING
AMERICA INC.,

Defendant.

No. C 13-5098 PJH

ORDER STAYING CASE

On March 10, 2014, this court entered an order denying plaintiff's motion for preliminary injunction, and further ordering plaintiff to show cause as to why the case should not be dismissed, as plaintiff's asserted claims were subject to arbitration. Plaintiff filed a response to the court's order on March 24, 2014, but did not address the issue of whether the court should dismiss the case. Instead, plaintiff used his response as an attempt at seeking reconsideration of the court's March 10 order, and simply re-argued positions that had already been considered and rejected by the court. In doing so, plaintiff violated Civil Local Rule 7-9, which requires parties to seek leave of court before filing a motion for reconsideration. Because plaintiff's response did not in any way address the court's order to show cause, it is hereby STRICKEN.

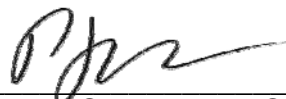
Defendant then filed its own response to the court's order to show cause, requesting that the court stay this action rather than dismiss it. Defendant explains that plaintiff has advised the arbitrator that he is "withdrawing" from the arbitration proceedings as of April 1, 2014. Defendant also attaches a letter from plaintiff, which confirms that plaintiff is "withdrawing from participation in the [] arbitration until such time as the matter in the Northern District of California is finally decided, including the conclusion of any appeals

1 process.” See Dkt. 49-1 at 1. Defendant expects to receive an award in the arbitration
2 proceedings, and requests that “this court exercise its discretion to stay rather than dismiss
3 the pending case, so that [defendant] can seek confirmation before this court.” Based on
4 defendant’s request, the court orders that this case be STAYED. However, because
5 plaintiff has chosen not to go forward with arbitration, the court recognizes that defendant
6 may file a motion to compel arbitration. If defendant does so, the stay will be lifted for that
7 limited purpose. If defendant wishes to file such a motion, it must notify the court of its
8 intention to do so by **April 18, 2014**.

9 Finally, defendant requests that the court sanction plaintiff based on his violation of
10 Civil Local Rule 7-9. The court will consider that request after the stay in this case is lifted.

11 **IT IS SO ORDERED.**

12 Dated: April 7, 2014



PHYLLIS J. HAMILTON
United States District Judge