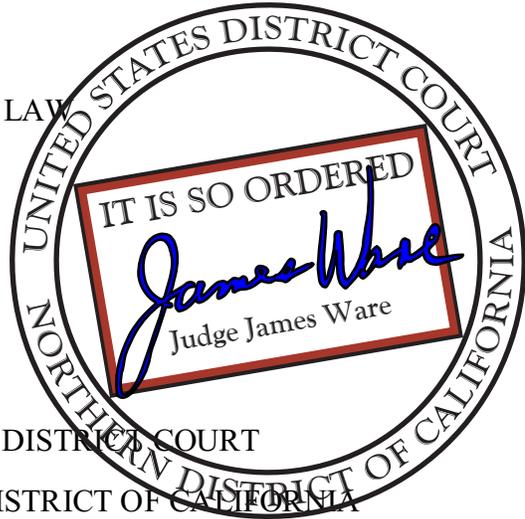


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4 Attorneys for Plaintiff
 5 **FRANK FERREYRA**



6
 7 UNITED STATES DISTRICT COURT
 8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 9 SAN JOSE DIVISION

10 **FRANK FERREYRA,**
 11 **Plaintiff,**
 12 **vs.**
 13 **GOOD SAMARITAN HOSPITAL, LP, et al,**
 14 **Defendants**

Case No. C0702581 HRL
 DECLARATION OF STEVEN P. COHN
 RE: ORDER TO SHOW CAUSE
**ORDER SETTING DEADLINE FOR
 FILING STIPULATED DISMISSAL**

15
 16 I, Steven P. Cohn, have personal knowledge of and am competent to testify to the following:

17
 18 I am the attorney for Plaintiff Frank Ferreyra and submit this declaration in opposition to dismissal
 19 of the case and request that the matter be deferred for 60 days to allow completion of mediation or,
 20 alternately, settlement.

21
 22 The case was submitted to mediation before the Honorable Ellen James on August 19, 2008 and
 23 conditionally settled at that time, subject to entering a formal Release to be prepared and containing
 24 broader terms used for employment case resolution. A second, revised settlement agreement was
 25 received on October 10th from Defendant Good Samaritan Hospital (Hospital Corporation of
 26 America) which my office forwarded to Mr. Ferreyra for his review, with a separate Release having
 27 been received from the Union at about this time and also forwarded to Mr. Ferreyra. Prior to Mr.
 28 Ferreyra's approval, a dispute arose in which Plaintiff Ferreyra reports that the JAMS settlement was

1 breached, with no particulars. Mr. Ferreyra is presently on vacation and has not returned our calls
2 nor responded to our correspondence regarding the Order to Show Cause in this matter.

3
4 Among the terms of settlement agreed to at mediation was that Plaintiff would be allowed to
5 voluntarily resign, by mutual agreement. His firing, after seventeen years of employment, was to be
6 redacted from his employment file. We have subsequently learned, however, that the code used for
7 this voluntarily resignation that was placed in his personnel file, in fact, means “not eligible for
8 rehire”, which was not agreed to. In the time since mediation, the parties have winnowed down the
9 Hospital facilities under the HCA umbrella that Plaintiff may not apply for work, while Plaintiff has
10 requested a return to JAMS due to the reported breach.

11
12 It was previously anticipated that a dismissal would be promptly filed before the Order to Show
13 Cause hearing and I had requested a Stipulation for continuance of same of counsel on Thursday,
14 October 16th given that Plaintiff had not signed the subject Releases or authorize my dismissal of the
15 case. It had previously been expected that the case would be dismissed prior to that date. HCA’s
16 attorney , as well as myself, attended the October 20th Order to Show Cause hearing upon learning
17 on Friday, October 18th that no Stipulation had been submitted.

18
19 I anticipate that Plaintiff will be responding to me by next week and all counsel will have an
20 opportunity to attempt resolution of the matter over the following several weeks. I have asked for
21 60 days continuance to allow the parties an opportunity to promptly return to JAMS to resolve any
22 continuing dispute and get a dismissal on file or return to the court to petition to return the case to
23 the active trial calendar at that time.

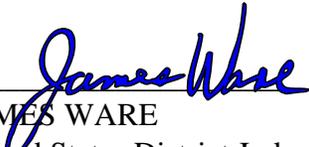
24
25 I have copied the parties to the action with this Declaration via email this date.

26
27 I declare under penalty of perjury that the foregoing is true and correct at San Jose, California, this
28 24th day of October, 2008.

1 ***** ORDER *****

2 Based on counsel's representation above, the Court orders that on or before **December 22,**
3 **2008,** the parties shall file their Stipulated Dismissal pursuant to the Court's order at the hearing
4 on the Order to Show Cause Re: Settlement on October 20, 2008. Failure to do so will result in
5 a Fed. R. Civ. P. 41(b) dismissal for lack of prosecution.
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8 Dated: December 16, 2008



JAMES WARE
United States District Judge

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