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United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Jose Martin,

NO. C 08-03135 JW

Plaintiff,

**ORDER TO SHOW CAUSE RE:
DISMISSAL**

v.

Social Security Administration,

Defendant.

_____ /

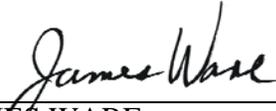
On June 30, 2009, upon Plaintiff’s filing of his Complaint, the Court issued a Social Security Procedural Order. (hereafter, “Order,” Docket Item No. 3.) The Court directed Defendant to file an Answer and Transcript within ninety days of the receipt of service and summons, and Plaintiff to serve and file a Motion for Summary Judgment within thirty days of Defendant’s Answer. (Id.) On December 19, 2008, Defendant served and filed its Answer and Transcript. (See Docket Item Nos. 12, 13, 14.) Pursuant to the Scheduling Order, Plaintiff’s Motion for Summary Judgment was due on January 20, 2009. To date, Plaintiff has neither filed his Motion nor otherwise communicate with the Court.

The Court hereby orders Plaintiff to appear in Courtroom No. 8, 4th Floor, United States District Court, 280 South First Street, San Jose, Ca. on **May 3, 2010 at 9:00 a.m.** to show cause, if any, by actual appearance in Court, and by certification filed with the Court on or **April 23, 2010**,

1 why this case should not be dismissed for failure to prosecute.¹ The certificate shall set forth in
2 factual summary the reason no Summary Judgment Motion has been filed and what steps Plaintiff is
3 taking to prosecute the action. If Plaintiff fails to file the certification, the May 3 hearing will be
4 vacated automatically and the case will be dismissed.

5 Failure to comply with any part of this Order will be deemed sufficient grounds to dismiss
6 this action pursuant to Fed. R. Civ. P. 41(b).

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8 Dated: April 7, 2010



JAMES WARE
United States District Judge

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25 ¹ Federal Rule of Civil Procedure 41(b) provides that a defendant may move for dismissal of
26 an action for “failure of the plaintiff to prosecute or to comply with these rules or any order of
27 court.” However, although Rule 41(b) provides for dismissal on the motion of the defendant, the
28 court may also dismiss an action *sua sponte*. See Link v. Wabash R.R., 370 U.S. 626, 629-30
(1962); see also Alexander v. Pacific Maritime Ass’n, 434 F.2d 281, 283-84 (9th Cir. 1970).

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Leo Rufino Montenegro Leo.R.Montenegro@ssa.gov

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4 Jose Martin
4136 Lander Avenue
Turlock, CA 95380

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Dated: April 7, 2010

Richard W. Wieking, Clerk

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By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy

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