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

In re: Fred Farmahin Farahani,

NO. C 08-05786 JW

ORDER OF DISMISSAL

_____ /
On December 30, 2008, Petitioner in *pro se*, filed a “Motion for Restraining Order Terminating Automatic Stay,” which was denied by Judge Whyte, as the court could not discern a basis upon which to grant relief. (See Docket Item Nos. 1 and 4.) On March 31, 2009, Plaintiff filed a handwritten motion contending that he is disabled due to a stroke and is unable to do the work required to prosecute this action. (See Docket Item No. 9.) The Court construed the letter as a motion for reconsideration of Judge Whyte’s December 30, 2008 Order, and denied the motion, as it did not present any new facts or law for the Court’s reconsideration. (See Order Denying Ex Parte Application, hereafter, “April 10 Order,” Docket Item No. 10.)

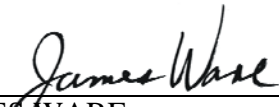
Included in the April 10 Order was an Order to Show Cause to provide the Court with a basis as to why it should not dismiss the case, as the Complaint¹ had been filed three months prior without any service of process upon any defendants or respondents. (April 10 Order at 2.) Pursuant to the April 10 Order, Plaintiff was to file a response to the Order to Show Cause by no later than April 24, 2009. (Id.)

¹ The Court construes Plaintiff’s Motion for Restraining Order Terminating Automatic Stay as a Complaint.

1 Plaintiff failed to timely respond to the Order to Show cause. In addition, the Court
2 conducted a hearing on May 4, 2009, and Plaintiff failed to appear. On May 6, 2009, Plaintiff filed a
3 declaration. (See Docket Item No. 12.) The Court has considered Plaintiff's declaration, but finds
4 that it is unresponsive to the issues raised in the Court's Order to Show Cause and fails to show that
5 Plaintiff will continue to prosecute this action.²

6 Accordingly, Plaintiff's action is DISMISSED with prejudice for lack of prosecution
7 pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Judgment shall be entered.

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9 Dated: May 12, 2009



JAMES WARE
United States District Judge

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27 ² Plaintiff's declaration again states that he is disabled, and therefore has, *inter alia*, had
28 difficulty prosecuting this action. However, the Court has previously informed Plaintiff that he has a
duty to prosecute this action regardless of his disability.

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

2 Fred Farmahin Farahani
3 1705 Westmont Avenue
4 Campbell, CA 95008

5 **Dated: May 12, 2009**

Richard W. Wieking, Clerk

6
7 **By: /s/ JW Chambers**
8 **Elizabeth Garcia**
9 **Courtroom Deputy**

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