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

In re Farahani,

NO. C 09-00130 JW

**ORDER DENYING APPELLANT’S
MOTION TO CONSIDER DISMISSAL**

_____ /

On January 8, 2009, Fred Farmahin Farahani (“Appellant”), proceeding *pro se*, filed this bankruptcy appeal, seeking reversal of the bankruptcy court’s order terminating the automatic stay pursuant to 11 U.S.C. § 362(a). Presently before the Court is Appellant’s Motion to “Consider Dismissal.”¹ (hereafter, “Motion,” Docket Item No. 2.)

Although Appellant’s Motion is difficult to comprehend, it appears to be a motion for the relief sought under his appeal—reversal of the bankruptcy court’s decision to lift the automatic stay pursuant to § 362(a). Despite entry of the appeal on the Court’s Docket on January 8, 2009, Appellant has failed to file and serve a brief stating the grounds for his requested relief in accordance with Bkr. L.R. 8010-1(a). In light of Appellant’s *pro se* status, the Court finds it appropriate to provide him an opportunity to pursue his appeal. Accordingly, the Court ORDERS as follows:

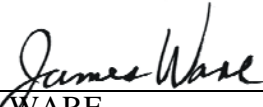
¹ The Court notes that this is Appellant’s second case asserting the same claims. See CV 08-5786 JW. On May 12, 2009, the Court dismissed that action for lack of prosecution and entered Judgment. The Court reserves the right to consider any collateral estoppel issues once the briefing schedule is completed.

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- (1) Appellant shall file and serve his appeal brief in accordance with the Federal Rules of Bankruptcy Procedure and the Court's Local Rules **within 15 days following this Order.**
- (2) Any further briefing, if any, shall be filed and served in accordance with the Local Rules governing bankruptcy appeals.
- (3) The Court Orders Appellant and Respondent to appear for a Case Management Conference on **June 29, 2009 at 10 a.m.** On or before **June 19, 2009**, the parties shall meet and confer and file a Joint Case Management Statement. The Statement shall provide the Court with an update of the parties' briefing on this matter.
- (4) Appellant shall serve this Order on Respondents on or before **May 22, 2009.**

Appellant's failure to comply with any part of this Order will result in dismissal under Rule 41(b) of the Federal Rules of Civil Procedure. The Court DENIES Appellant's Motion to Dismiss as premature.

Dated: May 15, 2009



JAMES WARE
United States District Judge

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

2 USBC Manager-San Jose
3 US Bankruptcy Court
4 280 South First Street
5 Room 3035
6 San Jose, CA 95113

7 Benjamin Rafael Levinson
8 Law Office of Benjamin Levinson
9 46 N. Second Street, Suite A
10 Campbell, CA 95008

11 Fred Farmahin Farahani
12 1705 Westmont Avenue
13 Campbell, Ca 95008

14
15 **Dated: May 15, 2009**

Richard W. Wieking, Clerk

16
17 **By: /s/ JW Chambers**
18 **Elizabeth Garcia**
19 **Courtroom Deputy**

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