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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ROBERT MCCARTHY,)
)
Plaintiff,)
)
v.)
)
RAMADA WORLDWIDE, INC.,)
)
Defendants.)
_____)

Case No.: C 09-4396 PVT

ORDER THAT CASE BE REASSIGNED TO A DISTRICT JUDGE; AND RECOMMENDATION THAT CASE BE DISMISSED FOR FAILURE TO PROSECUTE

This action was removed to this court from state court on September 18, 2009. Pursuant to the Scheduling Order for Cases Asserting Denial of Right of Access under Americans with Disabilities Act Title II & III (42 U.S.C. §§ 12131–89), the last day for Plaintiff to file a “Notice of Need for Mediation” was February 11, 2010 (45 days after the Joint Site Inspection, which that order set as December 28, 2009). Plaintiff failed to file any such notice, and other than a dismissal of Defendant Ramada Worldwide, Inc., there is no activity reflected in the docket of this case since it was removed from state court. On September 28, 2010, this court entered an order setting a deadline of October 12, 2010 for Plaintiff to show cause why the case should not be dismissed for failure to prosecute. Plaintiff has not filed any response to the order to show cause. Therefore,

IT IS HEREBY ORDERED that this case be reassigned to a District Judge.¹

¹ Magistrate Judges have authority to issue dispositive orders only in cases where all parties have consented to Magistrate Judge jurisdiction. See 28 U.S.C. § 636(c)(1).

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IT IS FURTHER ORDERED that this court recommends that this case be dismissed for failure to prosecute. *See*, FED.R.CIV.PRO. 41(b).

Dated: 10/20/10


PATRICIA V. TRUMBULL
United States Magistrate Judge