

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FRED FARMAHIN FARAHANI,

Plaintiff,

v.

RONALD A. FLORIA, ADOLFO SALAZAR,
PLM LENDER SERVICES,

Defendants.

Case No.: 12-CV-04637-LHK

ORDER SETTING DEADLINES FOR
OPPOSITION TO MOTION TO
DISMISS AND REPLY TO MOTION TO
DISMISS

On April 19, 2013, the Court issued an order granting without prejudice Defendant Ronald A. Floria's ("Floria") motion to dismiss Plaintiff's complaint. Doc. No. 46 ("Dismissal Without Prejudice Order"). The Court granted Plaintiff leave to file an amended complaint within 21 days, and explicitly cautioned that "[a] failure to meet the 21 day deadline to file an amended complaint, or to address the issues identified in this order will result in a dismissal of this case with prejudice." Id. at 20. At Plaintiff's request, the Court subsequently extended that deadline to May 24, 2013. Doc. No. 55. By May 31, 2013, Plaintiff had not filed an amended complaint, although he had filed eight other documents subsequent to the Dismissal Without Prejudice Order. Accordingly, on May 31, 2013, the Court issued an "Order Granting Final Extension of Time to File Amended Complaint." Doc. No. 69 ("Final Extension of Time Order"). In the Final Extension of Time Order, the Court reviewed Plaintiff's previous experience with the judicial system, and his extensive filings in this case. In recognition of Plaintiff's pro se status, the Court granted Plaintiff

1 “a final extension of 30 days to file an amended complaint consistent with the requirements
2 outlined in the Court’s Dismissal Without Prejudice Order.” Id. at 1-2. The Final Extension of
3 Time Order emphasized that the Court “will not entertain any additional requests for extension of
4 time.” Id. at 2.

5 On June 28, 2013, Plaintiff filed a First Amended Complaint. Doc. No. 72 (“FAC”). No
6 request for an extension of time accompanied the filing of the FAC. However, on July 8, 2013,
7 Plaintiff filed a “Request for Equitable Tolling to Allow the Disabled Plaintiff to Complete the
8 First Amended Complaint which Was Due by June 30, 2013; It Was Filed on June 28, 2013 Partly
9 Incomplete.” Doc. No. 74. In that filing, Plaintiff represented that his June 28, 2013 FAC was
10 “not totally complete,” and requested “equitable tolling” to permit him to file another amended
11 complaint. Id. The following day, July 9, 2013, Defendant Floria filed a Motion to Dismiss the
12 First Amended Complaint. Doc. No. 73. On July 22, 2013, Plaintiff filed a “Request for Equitable
13 Tolling to Answer Responses of Defendants Floria and PLM,” Doc. No. 77, which requests a
14 “reasonable amount of time” to respond to the Motion to Dismiss. The document states that
15 Plaintiff’s “reply” to this motion is due on July 30, 2013. In fact, pursuant to the Civil Local Rules,
16 Plaintiff’s opposition was due on July 23, 2013. See Civil L.R. 7-3.

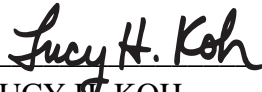
17 On July 23, 2013, Plaintiff filed a notice of appeal to the Ninth Circuit, although the docket
18 entry for the notice indicated the filing fee for the appeal had not been paid. Doc. No. 78 (“Notice
19 of Appeal”). Plaintiff sought to appeal Doc. Nos. 57 and 58. Doc. No. 57 was Plaintiff’s own
20 request for an extension of time to file his First Amended Complaint. Doc. No. 58 is the Court’s
21 Order of May 16, 2013, denying Doc. No. 57.

22 On July 24, 2013, the Court denied Plaintiff’s request to further amend his complaint. Doc.
23 No. 79. The Court, however, granted Plaintiff’s request for an extension of time to respond to
24 Floria’s motion to dismiss. Id. The Court set August 7, 2013 as the deadline for Plaintiff to file his
25 response. Id. The same day, July 24, 2013, the Ninth Circuit set a briefing schedule for Plaintiff’s
26 appeal. Doc. No. 81. Plaintiff did not file his response on August 7, 2013.

On August 27, 2013, the Ninth Circuit dismissed Plaintiff's appeal for lack of jurisdiction. Farahani v. Floria, No. 13-16494, Doc. No. 4 (9th Cir. Aug. 27, 2013). The Court once again has jurisdiction over this case. Given Plaintiff's appeal, the Court finds that one final extension of time for Plaintiff to respond to Floria's motion to dismiss is warranted. Plaintiff shall file any opposition to the motion to dismiss no later than September 18, 2013. Floria shall file any reply no later than October 9, 2013. A hearing on the motion to dismiss currently is set for December 12, 2013. **The Court will not entertain any further requests from Plaintiff for extensions of time.** Plaintiff has had ample opportunity to prepare his response to Floria's motion, and any further delay would be prejudicial to Floria. Failure by Plaintiff to file his response by the September 6, 2013 deadline subjects Plaintiff to dismissal of the case with prejudice.

IT IS SO ORDERED.

Dated: August 28, 2013



LUCY H. KOH
United States District Judge