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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MIKA ALFARO,

Plaintiff,

No. 2:10-cv-00891 JAM KJN PS

vs.

BANK OF AMERICA, INC.

Defendant.

FINDINGS AND RECOMMENDATIONS

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Plaintiff is proceeding without counsel. In an order issued on April 20, 2010, this court denied plaintiff's application for in forma pauperis status because plaintiff did not meet the indigency requirements of 28 U.S.C. § 1915(a). (Dkt. No. 3.) Hence, plaintiff was obligated to pay the \$350 filing fee to commence a civil action in federal district court. 28 U.S.C. § 1914(a). The court provided plaintiff with twenty days from the date of that order to pay the filing fee. (Dkt. No. 3.) If plaintiff did not pay the filing fee, she was advised that the undersigned would recommend dismissal of her action. (*Id.*)

Plaintiff paid her \$350 filing fee on May 5, 2010 via a check. (Court Receipt No. CAE200025974.) However, the undersigned learned on June 3, 2010 that plaintiff's check was returned to the court unpaid by plaintiff's financial institution.

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1 As the Clerk of Court advised plaintiff via a letter dated June 3, 2010, plaintiff  
2 was now also responsible for an additional fee of \$45 for a check paid into the court which was  
3 returned for lack of funds. (Dkt. No. 8 (citing 28 U.S.C. § 1914).) This court subsequently  
4 issued an order advising plaintiff that she was to remit the \$395.00 filing and returned check fee  
5 to the Clerk of Court, by June 14, 2010, in accordance with the terms of the Clerk's June 3 letter  
6 or her action may be dismissed. (Dkt. No. 8.) Plaintiff did not make any payment to the court on  
7 or before June 14, 2010.

8 Accordingly, the undersigned recommends that this case be dismissed for failure  
9 to pay the requisite filing fee and failure to comply with the court's orders. See Fed. R. Civ. P.  
10 41(b); 28 U.S.C. § 1914 et seq.; Local Rule 121; Hells Canyon Preservation Council v. U.S.  
11 Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005) (recognizing that courts may dismiss an action  
12 pursuant to Federal Rule of Civil Procedure 41(b) *sua sponte* for a plaintiff's failure to prosecute  
13 or comply with the rules of civil procedure or the court's orders); Ghazali v. Moran, 46 F.3d 52,  
14 53 (9th Cir. 1995) (per curiam) ("Failure to follow a district court's local rules is a proper ground  
15 for dismissal."); King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987) ("Pro se litigants must follow  
16 the same rules of procedure that govern other litigants.").

17 For the foregoing reasons, the undersigned HEREBY RECOMMENDS that:

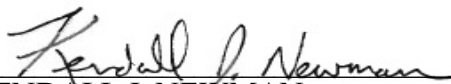
- 18 1. This case be dismissed without prejudice; and
- 19 2. The Clerk of Court be directed to close this case and vacate any pending  
20 dates.

21 These findings and recommendations are submitted to the United States District  
22 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen  
23 days after being served with these findings and recommendations, any party may file written  
24 objections with the court and serve a copy on all parties. Id.; see also Local Rule 304(b). Such a  
25 document should be captioned "Objections to Magistrate Judge's Findings and  
26 Recommendations." Any response to the objections shall be filed with the court and served on

1 all parties within fourteen days after service of the objections. Local Rule 304(d). Failure to file  
2 objections within the specified time may waive the right to appeal the District Court's order.  
3 Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57  
4 (9th Cir. 1991).

5 DATED: June 16, 2010

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE