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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIFFANY HILL,  
Plaintiff,  
v.  
U.S. BANCORP,  
Defendant.

No. 2:15-cv-540-MCE-EFB PS

FINDINGS AND RECOMMENDATIONS

This matter was before the court on February 24, 2016, for hearing on defendant’s motion to compel responses to discovery requests and to appear for her deposition. ECF No. 18.

Attorney Jennifer Zhao appeared on behalf of defendant. No appearance was made on behalf of plaintiff.

The motion demonstrates that plaintiff failed to provide any responses to defendant’s discovery requests and failed to appear for her noticed deposition, and accordingly Local Rule 251(e) applies. *See* E.D. Cal. L.R. 251(e) (providing that the requirement that the parties file a Joint Statement re Discovery Disagreement does not apply “when there has been a complete and total failure to respond to a discovery request or order.”). Local Rule 251(e), required plaintiff to file an opposition or statement of non-opposition to the motion by no later than February 3, 2016. In violation of that rule, plaintiff filed nothing. Accordingly, the hearing on the motion was continued to February 24, 2016, and plaintiff was ordered to show cause, by no later than

1 February 17, 2016, why sanctions should not be imposed for her failure to timely file an  
2 opposition or statement of non-opposition to the motion. ECF No. 37. That order also directed  
3 plaintiff to file either an opposition or statement of non-opposition by February 17, 2016. The  
4 order also admonished plaintiff that her failure to do so may result in the granting of defendant's  
5 motion and/or a recommendation that this action be dismissed for failure to prosecute.<sup>1</sup>

6 Plaintiff did not respond to court's order to show cause. Nor did she comply with the  
7 order that she file an opposition or statement of non-opposition to defendant's motion by  
8 February 17, 2016. Furthermore, as noted, she failed to appear at the hearing on the motion.<sup>2</sup>

9 Plaintiff has failed to respond to duly propounded discovery. She has failed to appear for  
10 her duly noticed deposition. She has failed to file any response to the motion to compel. She has  
11 failed to respond to the Order to Show Cause and failed to comply with court orders and the  
12 court's local rules. The record demonstrates that plaintiff has apparently abandoned her case.  
13 Accordingly, it is hereby RECOMMENDED that this action be dismissed for lack of prosecution  
14 and for violation of the courts orders, and that the Clerk be directed to close this case. *See* Fed. R.  
15 Civ. P. 41(b); E.D. Cal. L.R. 110.

16 These findings and recommendations are submitted to the United States District Judge  
17 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
18 after being served with these findings and recommendations, plaintiff may file written objections  
19 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings

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23 <sup>1</sup> Although it appears that plaintiff's copy of the order to show cause was returned as  
24 undeliverable, plaintiff was properly served at her last address of record. Pursuant to Local Rule  
25 182(f), service of documents at the record address is fully effective and it is the plaintiff's  
responsibility to keep the court apprised of her current address at all times.

26 <sup>2</sup> At the hearing, defense counsel represented that in addition to serving plaintiff a copy of  
27 the motion at her last known address, counsel also emailed plaintiff a courtesy copy of the  
28 motion, but did not receive a response. Counsel indicated that the email address she used was  
provided by plaintiff's former counsel, who verified that the email address was previously  
utilized by plaintiff.

1 and Recommendations.” Failure to file objections within the specified time may waive the right  
2 to appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998);  
3 *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

4 DATED: March 3, 2016.

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6 EDMUND F. BRENNAN  
7 UNITED STATES MAGISTRATE JUDGE  
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