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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CARLOTTA OGUNDIMO,)	1:09-cv-00231-OWW-SMS
)	
Plaintiff,	)	ORDER DENYING PLAINTIFF'S MOTION
	)	TO SUBMIT EVIDENCE (Doc. 32)
)	
v.	)	ORDER DENYING PLAINTIFF'S MOTION
	)	FOR SUBPOENAS AND EVIDENCE, FOR A
STEADFAST PROPERTY &	)	POSTPONEMENT, AND FOR SERVICE
DEVELOPMENT,	)	DOCUMENTS (DOC. 33)
)	
Defendants.	)	ORDER STRIKING PLAINTIFF'S REPLY
	)	(DOC. 32, pages 2-8)
)	
	)	ORDER STRIKING PLAINTIFF'S MOTION
	)	FOR DEFAULT JUDGMENT (DOC. 35)
)	
	)	INFORMATIONAL ORDER TO PLAINTIFF
	)	AND TO THE PARTIES

Plaintiff is proceeding pro se and in forma pauperis with an action for damages and other relief concerning alleged civil rights violations concerning housing. The matter has been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b) and Local Rules 72-302 and 72-304.

1 The matter has not been scheduled yet, and the initial
2 scheduling conference is set for September 18, 2009, before
3 District Judge Oliver W. Wanger.

4 I. Request to Submit Evidence

5 By motion filed on July 2, 2009 (Doc. 32), Plaintiff moved
6 for leave to submit evidence to prove the allegations of the
7 complaint.

8 Plaintiff's request was not scheduled for a hearing or
9 otherwise appropriately noticed in accordance with Local Rule 78-
10 230(b). Further, the submission of evidence concerning the merits
11 is premature and is inappropriate unless a motion or other
12 proceeding on the merits is pending before the Court.

13 Plaintiff's motion for leave to submit evidence IS DENIED.

14 II. Striking the Reply

15 The Court notes that the docket reflects that attached to
16 Plaintiff's motion or request is a reply. The Court has not
17 directed that a reply to the answer be filed. See, Fed. R. Civ.
18 P. 7. A court may strike a document that does not conform to the
19 formal requirements of the pertinent rules of court. Fed. R. Civ.
20 P. 12(f); Transamerican Corp. v. National Union Fire Ins. Co. of
21 Pittsburgh, Pa., 143 F.R.D. 189, 191 (N.D. Ill. 1992).

22 Accordingly, Plaintiff's purported reply, filed on July 2,
23 2009, as an attachment to her motion or request to submit
24 evidence (Doc. 32, pp. 2-8) IS ORDERED STRICKEN FROM THE RECORD.

25 III. Motion for Subpoenas and Request for Postponement

26 On July 2, 2009, Plaintiff filed a motion or request for
27 subpoenas for witnesses and evidence (Doc. 33). Plaintiff's
28 motion was not appropriately noticed or set for a hearing as

1 required by the local rules. Further, because Plaintiff's case
2 has not yet been scheduled, Plaintiff's requests for discovery
3 are premature. Likewise, because discovery has not formally begun
4 and certainly has not been completed, the Court does not
5 anticipate that any motions for summary judgment will be brought
6 immediately by Defendant. In any case, there is no demonstrated
7 need for a continuance of any summary judgment motion at this
8 early point in the proceedings.

9 Accordingly, Plaintiff's motions for evidence or discovery
10 ARE DENIED.

11 Further, Plaintiff IS REMINDED that in addition to attending
12 the scheduling conference, Plaintiff will be required to
13 cooperate with Defendant's counsel and to submit a timely
14 settlement conference statement in compliance with all rules and
15 orders of the Court, and specifically, the Court's scheduling
16 order.

17 IV. Request for Service Documents

18 In the motion for subpoenas (Doc. 33, pp. 8-9), Plaintiff
19 requests a copy of the Marshal's acknowledgment of service for
20 Defendant, apparently in connection with an effort to seek
21 default judgment against Defendant Steadfast, whose answer was
22 filed on June 19, 2009.

23 Again, Plaintiff's request for discovery is premature and
24 need not be addressed by the Court until after the case is
25 scheduled and the parties have completed the requisite process of
26 cooperating with disclosures and discovery. Thus, Plaintiff's
27 request for a copy of the Marshal's acknowledgment of service IS
28 DENIED.

1 Further, Plaintiff IS INFORMED that there is a strong policy
2 of determining cases on their merits, and thus, the Court will
3 not needlessly spend its severely limited resources, or encourage
4 such use of the parties' resources, on matters so tangential to,
5 and inconsistent with, an orderly process of progressing through
6 discovery to the resolution of the case on the merits.

7 V. Motion for Default Judgment

8 On July 7, 2009, Plaintiff filed a motion for default
9 judgment against Defendant Steadfast Properties and Development.
10 The motion was not set for a hearing. Defendant Steadfast Park
11 West, L.P. (Steadfast), erroneously sued as Steadfast Property &
12 Development, filed unsolicited opposition to the motion on July
13 13, 2009.

14 The motion was not set for a hearing. The Court thus STRIKES
15 the motion as not in compliance with the local rules.

16 The Court INFORMS Plaintiff that in view of the contents of
17 the waiver of service completed by Defendant's counsel (Doc. 29),
18 which reflects a direction to respond to the complaint within
19 sixty days after April 20, 2009, and further considering the
20 answer filed by Defendant Steadfast on June 19, 2009, it would
21 appear that a motion for default judgment, even if properly
22 noticed, would be without grounds because Plaintiff's purported
23 service by certified mail does not appear to satisfy the
24 requirements of Fed. R. Civ. P. 4 (Doc. 10).

25 Further, the Court declines Defendant's informal request,
26 stated in its opposition to the motion for default judgment (Doc.
27 36, pp. 2-3) that the Magistrate Judge declare the identity of
28 the Defendants or discern the parties to the case. The screening

1 function, performed by the Magistrate Judge in connection with
2 the complaint of a plaintiff who proceeds in forma pauperis, is a
3 minimal screening to discern that the action does not wholly fail
4 to state a claim. Matters concerning the number and service
5 status of the parties and the identity of the ultimately proper
6 defendants in a case are appropriately addressed at the
7 scheduling conference. See, Local Rule 16-240, and the Court's
8 scheduling order, which was filed on March 20, 2009.

9
10 IT IS SO ORDERED.

11 **Dated: July 17, 2009**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE