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

KATHLEEN SEIFERT,

Plaintiff,

NO. CIV. S-08-0998 KJM-CKD

vs.

RICHARD WERNER,

Defendant.

ORDER

\_\_\_\_\_ /  
This matter is before the court on plaintiff's motion for sanctions and defendant's cross motion for sanctions. ECF No. 148; ECF No. 151. For the reasons set forth below, both motions are DENIED.

This diversity case has been stayed since January 21, 2009. ECF No. 80. Since September 21, 2009, the case has been before an arbitrator chosen by the parties. ECF No. 98. Prior to the present motion for default as a sanction, plaintiff moved on four previous occasions to return the matter from arbitration to the district court. ECF No. 102; ECF No. 120; ECF No. 130; ECF No. 142. The court has denied each request and in each instance returned the matter to arbitration. ECF No. 112; ECF No. 128; ECF No. 141; ECF No. 149.

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The court notes the parties’ filings but declines to consider them because doing so would contravene the stay in effect. The parties are once again directed to return to arbitration. Plaintiff is cautioned that any further motions filed here prior to the resolution of arbitration may result in the *sua sponte* dismissal of the action on the court’s own motion for plaintiff’s failure to prosecute. *See Morris v. Morgan Stanley & Co.*, 942 F.2d 648, 652 (9th Cir. 1991) (“it is the responsibility of the moving party to move towards [ ] disposition at a reasonable pace, and to refrain from dilatory and evasive tactics”).

IT IS SO ORDERED.

DATED: October 11, 2011.

  
UNITED STATES DISTRICT JUDGE