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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 SILVIA BURLEY, CHAIRPERSON,
11 CALIFORNIA VALLEY MIWOK
12 TRIBE, formerly the Sheep Ranch
13 Rancheria of Me-Wuk Indians of
14 California (a Federally Recognized
15 Indian Tribe),

16 Plaintiff,

No. 2:09-cv-01657 GEB KJN PS

17 v.

18 SAN JOAQUIN COUNTY SHERIFF'S
19 OFFICE, SHERIFF'S CIVIL DIVISION,
20 INDYMAC BANK, FSB,

21 Defendants.

ORDER22 _____/
23 Plaintiff, who is proceeding without counsel, filed this action on June 15, 2009,
24 seeking declaratory relief and injunctive relief with the principal purpose of preventing
25 defendants from evicting the California Valley Miwok Tribe (the "Tribe") from the property at
26 issue in this case.¹ (See Dkt. No. 1.) She filed an application for a temporary restraining order
seeking to prevent the impending eviction, which the court denied on the grounds that plaintiff,27 _____
28 ¹ This case was referred to the undersigned pursuant to Eastern District of California Local
Rule 302(c)(21) and 28 U.S.C. § 636(b)(1), and was reassigned by an order entered February 9, 2010
(Dkt. No. 15).

1 an individual and non-attorney, could not prosecute a lawsuit in federal court on behalf of the
2 Tribe. (See Dkt. Nos. 4, 5.)

3 In July 2009, defendants moved to dismiss this action, in part, on the grounds that
4 plaintiff could not represent the Tribe in federal court. (Dkt. No. 7.) However, defendants
5 subsequently withdrew their motion to dismiss so that the parties could attempt to resolve the
6 matter “without further law and motion.” (Dkt. No. 12.) Despite withdrawing their motion,
7 however, defendants have not filed an answer in this case.

8 This matter lingered without activity until January 2010, when the court ordered
9 plaintiff to file a status report addressing why the case should not be dismissed. (Dkt. No. 13.)
10 Specifically, the court was concerned that this case should be dismissed because the threat of
11 eviction was “no longer imminent in light of the long passage of time since plaintiff filed this
12 action.” (Id.)

13 Plaintiff filed the required status report. (Dkt. No. 14.) Essentially, her report
14 states that the reason for inactivity in this case is that: (1) the Tribe is waiting to take further
15 action in this case until it has an opportunity and funds to retain counsel; and (2) the Tribe is
16 awaiting decisions from the Ninth Circuit Court of Appeals and the California Court of Appeal
17 that might result in the payment of funds to the Tribe. In essence, plaintiff appears to be
18 requesting that this court stay the matter before it until the appellate cases referenced in the status
19 report are resolved. Plaintiff also reports that the parties negotiated a thirty-day postponement of
20 the entry of judgment, until February 15, 2010, with respect to the eviction.

21 The undersigned will set a status conference and order the filing of separate status
22 reports. Plaintiff’s status report should address: (1) whether the Tribe has retained counsel to
23 proceed in this action; (2) the status of the eviction proceedings as to the property at issue; (3) the
24 status of the appeals referenced in her previously filed status report; and (4) why this case should
25 not be dismissed for failure to prosecute the action. See Fed. R. Civ. P. 41(b); Hells Canyon
26 Preservation Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005) (recognizing that

1 courts may dismiss an action pursuant to Federal Rule of Civil Procedure 41(b) *sua sponte* for a
2 plaintiff's failure to prosecute or comply with the rules of civil procedure or the court's orders).
3 Defendants' status report should address: (a) the status of the eviction proceedings as to the
4 property at issue; (b) the reasons for their failure to file an answer or re-file their motion to
5 dismiss; and (c) their position regarding what the court interprets as plaintiff's request for a stay
6 of this action.

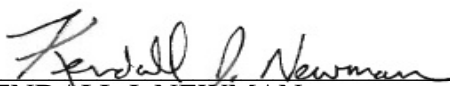
7 For the foregoing reasons, IT IS HEREBY ORDERED that:

8 1. Plaintiff and defendants shall appear at a status conference before the
9 undersigned on June 24, 2010 at 10:00 a.m.

10 2. Plaintiff and defendant shall file their respective status reports on or before
11 June 10, 2010.

12 IT IS SO ORDERED.

13 DATED: May 21, 2010

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17 KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE
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