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

TREVA HADDEN,

Plaintiff,

No. 2:10-cv-02359 MCE KJN PS

v.

BANK OF AMERICA
CORPORATION, et al.,

Defendants.

ORDER

On September 1, 2010, defendants removed this action to federal court. (Dkt. No. 1.) On September 9, 2010, defendants filed a motion to dismiss plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) and noticed its motion for a hearing to take place before the undersigned on November 18, 2010.¹ (Dkt. Nos. 5.) Pursuant to this court's Local Rules, plaintiff was obligated to file and serve a written opposition or statement of non-opposition to defendants' motion at least fourteen days prior to the hearing date. Thus, plaintiff was required to file and serve her opposition to defendant's motion, or a statement of non-

¹ This action proceeds before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 opposition, on or before November 4, 2010. See E. Dist. Local Rule 230(c).² The court’s docket
2 reveals that plaintiff, who is proceeding without counsel, failed to file a written opposition or
3 statement of non-opposition with respect to defendants’ motion to dismiss.

4 Eastern District Local Rule 110 provides that “[f]ailure of counsel or of a party to
5 comply with these Rules or with any order of the Court may be grounds for imposition by the
6 Court of any and all sanctions authorized by statute or Rule or within the inherent power of the
7 Court.” Moreover, Eastern District Local Rule 183(a) provides, in part:

8 Any individual representing himself or herself without an attorney is
9 bound by the Federal Rules of Civil or Criminal Procedure, these Rules,
10 and all other applicable law. All obligations placed on “counsel” by these
11 Rules apply to individuals appearing in propria persona. Failure to comply
12 therewith may be ground for dismissal . . . or any other sanction
13 appropriate under these Rules.

14 See also King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987) (“Pro se litigants must follow the
15 same rules of procedure that govern other litigants.”). Case law is in accord that a district court
16 may impose sanctions, *including involuntary dismissal of a plaintiff’s case* pursuant to Federal
17 Rule of Civil Procedure 41(b), where that plaintiff fails to prosecute her case, fails to comply
18 with the court’s orders, or fails to comply with the court’s local rules. See Chambers v. NASCO,
19 Inc., 501 U.S. 32, 44 (1991) (recognizing that a court “may act *sua sponte* to dismiss a suit for
20 failure to prosecute”); Hells Canyon Preservation Council v. U.S. Forest Serv., 403 F.3d 683, 689
21 (9th Cir. 2005) (stating that courts may dismiss an action pursuant to Federal Rule of Civil

22 ² Eastern District Local Rule 230(c) provides:

23 **(c) Opposition and Non-Opposition.** Opposition, if any, to the granting
24 of the motion shall be in writing and shall be filed and served not less than
25 fourteen (14) days preceding the noticed (or continued) hearing date. A
26 responding party who has no opposition to the granting of the motion shall
serve and file a statement to that effect, specifically designating the motion
in question. No party will be entitled to be heard in opposition to a motion
at oral arguments if opposition to the motion has not been timely filed by
that party. . . .

1 Procedure 41(b) *sua sponte* for a plaintiff's failure to prosecute or comply with the rules of civil
2 procedure or the court's orders); Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam)
3 ("Failure to follow a district court's local rules is a proper ground for dismissal."); Ferdik v.
4 Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992) ("Pursuant to Federal Rule of Civil Procedure
5 41(b), the district court may dismiss an action for failure to comply with any order of the court.");
6 Thompson v. Housing Auth. of City of L.A., 782 F.2d 829, 831 (9th Cir. 1986) (per curiam)
7 (stating that district courts have inherent power to control their dockets and may impose
8 sanctions including dismissal).

9 In light of the foregoing, IT IS HEREBY ORDERED that:


10 1. The hearing on defendants' motion to dismiss plaintiff's complaint, which
11 is presently set for November 18, 2010, is continued until December 30, 2010.

12 2. Plaintiff shall file a written opposition to the motion to dismiss, or a
13 statement of non-opposition thereto, on or before December 16, 2010. *Plaintiff's failure to file a*
14 *written opposition may be deemed a statement of non-opposition to the pending motion, and*
15 *shall constitute an additional ground for the imposition of appropriate sanctions, including a*
16 *recommendation that plaintiff's case be involuntarily dismissed pursuant to Federal Rule of Civil*
17 *Procedure 41(b).*

18 3. Defendants may file a written reply to plaintiff's opposition, if any, on or
19 before December 23, 2010.

20 IT IS SO ORDERED.

21 DATED: November 9, 2010

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23 
24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE
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