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

UNITED STATES OF AMERICA,

Plaintiff,

No. 2:10-cv-02438 WBS KJN PS

v.

MARIA LOPEZ,

Defendant.

ORDER

_____/

On September 29, 2010, the court entered an order: (1) granting defendant’s motion for leave to proceed in forma pauperis, and (2) ordering defendant to file a written opposition to plaintiff’s pending motion to remand this matter to state court, or a statement of non-opposition, on or before October 14, 2010.¹ (Dkt. No. 11.) The court’s docket reveals that defendant has not filed an opposition or statement of non-opposition.

Although defendant did not comply with the court’s order, she did file, on October 15, 2010, a document entitled “Declination To Proceed Before A Magistrate Judge and Request for Reassignment To A United States District Judge.” (Dkt. No. 12.) It appears that defendant might be laboring under the misconception that this filing constitutes compliance with

¹ The procedural history of this case is set forth in more detail in the court’s order entered September 29, 2010.

1 the court's order that she file a written opposition or statement of non-opposition to plaintiff's
2 motion to remand. It does not. Moreover, her declination of consent to the jurisdiction of the
3 undersigned magistrate judge does not remove this matter from the jurisdiction of the magistrate
4 judge, as jurisdiction over certain matters is conferred by 28 U.S.C. § 636(b)(1) and this court's
5 Local Rule 302(c)(21), the latter of which states that in the Sacramento division of this court, "all
6 actions in which all the plaintiffs or defendants are proceeding in propria persona, including
7 dispositive and non-dispositive motions and matters."² Nevertheless, because it appears that
8 defendant might be confused regarding the authority of the magistrate judge over her case, the
9 undersigned will permit defendant a final opportunity to file a written opposition or statement of
10 non-opposition to plaintiff's pending motion to remand.

11 In considering this court's orders, defendant should note that Eastern District
12 Local Rule 110 provides that "[f]ailure of counsel or of a party to comply with these Rules or
13 with any order of the Court may be grounds for imposition by the Court of any and all sanctions
14 authorized by statute or Rule or within the inherent power of the Court." Moreover, Eastern
15 District Local Rule 183(a) provides, in part:

16 Any individual representing himself or herself without an attorney is
17 bound by the Federal Rules of Civil or Criminal Procedure, these Rules,
18 and all other applicable law. All obligations placed on "counsel" by these
19 Rules apply to individuals appearing in propria persona. Failure to comply
20 therewith may be ground for dismissal . . . or any other sanction
21 appropriate under these Rules.

22 See also King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987) ("Pro se litigants must follow the
23 same rules of procedure that govern other litigants."). Defendant should also note that "[d]istrict
24 courts have inherent power to control their dockets," and in "the exercise of that power they may
25 impose sanctions including, where appropriate, default or dismissal." Thompson v. Housing
26 Auth. of City of L.A., 782 F.2d 829, 831 (9th Cir. 1986) (per curiam).

² Defendant is referred to the court's Local Rules generally, and Local Rules 300 through 305 specifically, regarding the scope of the magistrate judge's duties in civil matters.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Defendant shall file and serve a written opposition to plaintiff's motion to
3 remand, or statement of non-opposition to the granting of the motion to remand, on or before
4 December 9, 2010. Defendant's failure to file an opposition will be construed as a statement of
5 non-opposition to plaintiff's motion and will result in a recommendation that plaintiff's motion
6 be granted and this matter be remanded to state court.

7 2. Plaintiff may file and serve a written reply to defendant's opposition brief,
8 if any, on or before December 23, 2010.³

9 4. The court will set a hearing on plaintiff's motion for remand if it
10 determines that one is necessary.

11 IT IS SO ORDERED.

12 DATED: November 17, 2010

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14 _____
15 KENDALL J. NEWMAN
16 UNITED STATES MAGISTRATE JUDGE

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³ In filing an optional reply brief, plaintiff might consider addressing what impact, if any, 28 U.S.C. § 1345 has on this court's subject matter jurisdiction.