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

YOLANDA Y. BELL,

Plaintiff,

No. 2:12-cv-1414-GEB-JFM PS

vs.

UNITED STATES DEP'T OF INTERIOR,
KENNETH SALAZAR, Secretary,

Defendant.

ORDER AFTER HEARING

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Plaintiff, proceeding in pro per, initiated this action pursuant to Title VII of the Civil Rights act of 1964, 42 U.S.C. §§ 2000e *et seq.*, and the Rehabilitation Act, 29 U.S.C. § 701, alleging race discrimination, retaliation, and hostile work environment. On May 29, 2013, the court held a hearing on plaintiff's motion to continue the scheduling order (ECF 68), defendant's motion to dismiss for failure to prosecute (ECF 71), and defendant's motion for discovery sanctions (ECF 75). Plaintiff appeared in pro per and Victoria Boesch appeared on behalf of defendant.

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1 For the reasons stated on the record, it is hereby ORDERED that:

2 1. Plaintiff's motion to continue (ECF 68) is granted, in part. Accordingly, the following
3 dates are set by the court:

4 a. On or before June 12, 2013, plaintiff shall produce all discovery documents to
5 defendant by either (1) sending them to defendant or producing them at the United States
6 Attorney's Office closest to plaintiff's residence; or (2) making them available to defendant for
7 copying. The parties may discuss alternative methods of production such as scanning the
8 documents for production on a disk.

9 b. Plaintiff's deposition is scheduled for July 18, 2013, at 9:00 a.m. PST (12:00
10 p.m. EST). Plaintiff may appear in Sacramento, California. Alternatively, the parties are
11 ordered to attempt to conduct the deposition by video conference. This order is without
12 prejudice to defendant to filing a motion to conduct the deposition in Sacramento, California, if
13 the parties' good faith efforts to conduct a video conference fail.

14 c. Discovery shall be completed, and any motions pertaining to discovery shall
15 be noticed so as to be heard on or before September 3, 2013.

16 d. Dispositive motions, if any, shall be noticed to be heard on or before
17 December 30, 2013.

18 e. All other dates in the court's February 21, 2013, scheduling order (ECF 65)
19 shall remain effective. No further modifications of the scheduling order will be granted except
20 upon a showing of good cause. See Johnson v. Mammoth Recreations, Inc., 975 F.2d 604 (9th
21 Cir. 1992).

22 2. Defendant's motion to dismiss for failure to prosecute (ECF 71) is denied as
23 premature. See Johnson v. U.S. Dept. of Treasury, 939 F.2d 820, 825-26 (9th Cir. 1991)
24 ("Because dismissal is the harshest available penalty, we have long recognized that district
25 judges have an obligation to warn the plaintiff that dismissal is imminent.") (internal quotation
26 and citation omitted).

1 3. Defendant's motion for discovery sanctions (ECF 75) is denied as premature. See
2 Hyde & Drath v. Baker, 24 F.3d 1162, 1167 (9th Cir. 1994) (a district court is required, among
3 other things, "to consider alternate, less severe, sanctions before ordering dismissal").

4 4. Plaintiff is hereby warned that failure to timely respond to further discovery requests
5 or to appear for deposition will result in sanctions which may include dismissal of her case. See
6 Fed. R. Civ. P. 16(f); Fed. R. Civ. P. 37(d); Local Rule 110.

7 5. The court is in receipt of plaintiff's motion entitled "Motion to Reconsider
8 Appointment of Counsel." ECF 79. This will be deemed a motion for reconsideration by the
9 district judge of this court's order of November 2, 2012. ECF 57. Accordingly, the motion is
10 hereby forwarded to the district judge presiding over this matter, pursuant to Local Rule 303(c).
11 In accordance with Local Rule 303(d), defendant's opposition, if any, shall be served and filed
12 within five days after service of this order.

13 IT IS SO ORDERED.

14 DATED: June 5, 2013.

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16 EDMUND F. BRENNAN
17 UNITED STATES MAGISTRATE JUDGE
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