UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

KOSAL VONG, an individual,

Plaintiff, NO. CIV. S-12-2860 LKK/DAD

v.

O R D E R

BANK OF AMERICA, N.A., (for itself and as the successor to COUNTRYWIDE HOME LOANS, INC., d/b/a America's Wholesale Lender, Inc., and as successor to BAC Home Loans Servicing, LP); and DOES 1 through 100, inclusive,

Defendants.
_____/

For the reasons that follow, this case will be dismissed for failure to prosecute, and this order will be forwarded to the State Bar of California to ensure that it is aware of the conduct of plaintiff's counsel, Vicki St. John, Esq. (Cal. Bar No. 139625).

1. In violation of E.D. Cal. R. 230(b), plaintiff failed to file a timely opposition, or Statement of Non-Opposition, to defendant's motion to dismiss (ECF No. 8). The court issued an Order To Show Cause why plaintiff's counsel should not be

sanctioned for this conduct. ECF No. 11. Plaintiff's counsel responded by explaining that she was distracted with health issues involving her 81 year old widowed mother in Omaha, Nebraska, and health issues involving her husband. ECF No. 13. The Court discharged the OSC, and continued the hearing on the motion to dismiss. ECF No. 15.

2. In violation of E.D. Cal. R. 230(i), plaintiff's counsel failed to appear at the May 13, 2013 continued hearing on the motion to dismiss, and failed to notify the court or opposing counsel that she would not appear. ECF No. 23 (Minutes). On May 14, 2013, the court issued an Order To Show Cause (OSC) why counsel should not be sanctioned for this conduct, and submitted the dismissal motion on the papers. ECF No. 24.

3. In violation of the May 14, 2013 OSC, plaintiff's counsel never responded to the OSC.

4. In violation of this court's prior order, plaintiff failed to file a required Status Report for the scheduled June 24, 2013, Status Conference. See ECF No. 5 ¶ 8 (status reports due 14 days preceding the status conference).

Accordingly:

a. This case is **DISMISSED** for failure to prosecute, pursuant to Fed. R. Civ. P. 41(b);

b. The Clerk of the Court shall send a copy of this order, along with a completed "Discipline Referral Form,"[1] to the

[1] See

(continued...)

State Bar of California, Office of the Chief Trial Counsel, Intake, 1149 South Hill St., Los Angeles, CA 90015-2299.

IT IS SO ORDERED.

DATED: June 24, 2013.

LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT

[1](...continued)

www.calbar.ca.gov/Portals/0/documents/Regulation/2012-DisciplineReferralForm.pdf