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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SARAH R. NOVO,

Plaintiff,

v.

CITY OF SACRAMENTO,
ANGELIQUE ASHBY,

Defendants.

No. 2:13-cv-00521-MCE-AC

ORDER

On December 5, 2014, Plaintiff filed a Motion for Partial Summary Judgment in this matter (ECF No. 54). Counsel for Defendants, in turn, filed an Ex parte Application to Strike said motion as untimely (ECF No. 55). Plaintiff has filed no opposition to that Application, which is now before the Court for adjudication.

This case was originally assigned to the Honorable Lawrence K. Karlton. On July 28, 2014, Defendants filed their Motion for Summary Judgment and noticed said Motion for hearing on August 25, 2014. That hearing date conformed with Judge Karlton's Pretrial Scheduling Order, ("PTSO") issued July 11, 2013, which required any motion to be heard by September 8, 2014. ECF No. 18. On August 18, 2014, Judge

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1 Karlton continued the hearing on Defendants' Motion to October 14, 2014 in accordance
2 with plaintiff's Ex Parte Application to Continue. See ECF Nos. 33, 35.

3 On August 27, 2014, the case was reassigned to the undersigned in view of
4 Judge Karlton's impending retirement from the bench. ECF No. 36. Defendants' Motion
5 was subsequently re-noticed before this Court for hearing on October 30, 2014. Given
6 Plaintiff's failure to oppose the Motion prior to the October 30 hearing date, an Order to
7 Show Cause was issued on October 21, 2014, as to why the case should not be
8 dismissed for noncompliance with the applicable Local Rules and for failure to
9 prosecute. ECF No. 42. Opposition was ultimately filed by Plaintiff on November 18,
10 2014, and the hearing was reset to December 18, 2014. ECF Nos. 48, 51.

11 Consequently, while Defendants' Motion was not actually heard until
12 December 18, 2014, it was initially noticed for hearing on August 25, 2014, within the
13 time period contemplated by Judge Karlton's PTSO. With respect to motions submitted
14 outside the PTSO's time parameters, the PTSO states clearly that any such deadline
15 shall not be "modified except by leave of court upon a showing of good cause." PTSO,
16 ECF No. 18, 10:3-4. The provisions of the PTSO remained in effect upon reassignment
17 of this matter to the undersigned unless otherwise changed. As this Court's
18 Reassignment Order of August 27, 2014 states: "All dates currently set in this
19 reassigned action shall remain effective subject to further order of the court." ECF
20 No. 36, 1:23-24.

21 Here, Plaintiff obtained no leave of court before filing her Motion for Summary
22 Judgment despite the fact that said Motion was scheduled for hearing on January 22,
23 2015, more than four months after the deadline for hearing had passed. Given that
24 failure, Defendants' Ex Parte Application to Strike (ECF No. 55) is GRANTED. Plaintiff's

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1 Motion for Partial Summary Judgment (ECF No. 54) is accordingly DENIED, without
2 prejudice, to being refiled should the necessary leave of court be obtained.

3 IT IS SO ORDERED.

4 Dated: December 22, 2014

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MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT

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