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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEI ANN VARLETTA YOUNG,
Plaintiff,
v.
COUNTY OF SAN JOAQUIN, et al.,
Defendants.

No. 2:13-cv-0761 KJM AC PS

ORDER AND
FINDINGS AND RECOMMENDATIONS

This action was referred to the undersigned pursuant to Local Rule 302(c)(21). On May 13, 2014, plaintiff was ordered to show cause why this action should not be dismissed for failure to prosecute. ECF No. 10. Plaintiff has not responded to the Court’s order.

Courts do not take failures to comply with Court orders or failures to prosecute lightly. Federal Rule of Civil Procedure 41(b) authorizes involuntary dismissals for failure “to prosecute or to comply with [the federal] rules or a court order.” Fed. R. Civ. P. 41(b). Unless the Court in its order for dismissal otherwise specifies, a dismissal under this rule operates as an adjudication upon the merits. See id. To determine whether dismissal is appropriate, the Court must consider five factors: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to defendants/respondents; (4) the availability of less drastic alternatives; and (5) the public policy favoring disposition of cases on their merits.” Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002).

1 In determining to recommend that this action be dismissed, the court has considered these
2 five factors. Here, the first two factors strongly support dismissal of this action. Plaintiff's
3 failure to comply with the Local Rules and the Court's order to show cause suggests that she has
4 abandoned this action, which was filed over one year ago. Further time spent by the court on this
5 matter will consume scarce judicial resources in addressing litigation which plaintiff demonstrates
6 no intention to pursue. The fifth factor also favors dismissal. The Court has advised plaintiff of
7 the requirements under the Local Rules and granted ample time to respond to the Court's order,
8 all to no avail. The Court finds no suitable alternative to dismissal of this action.

9 Under the circumstances of this case, the third factor, prejudice to defendants from
10 plaintiff's failure to prosecute, should be given little weight as none of the defendants have yet
11 been served. The fourth factor, public policy favoring disposition of cases on their merits, weighs
12 against dismissal of this action as a sanction. However, for the reasons set forth above, the first,
13 second, and fifth factors strongly support dismissal and the third factor does not mitigate against
14 it. Under the circumstances of this case, those factors outweigh the general public policy favoring
15 disposition of cases on their merits.

16 Accordingly, IT IS HEREBY ORDERED that the order to show cause is vacated; and
17 IT IS HEREBY RECOMMENDED that this action be dismissed for failure to prosecute
18 and failure to comply with a Court order.

19 These findings and recommendations are submitted to the United States District Judge
20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
21 after being served with these findings and recommendations, any party may file written
22 objections with the court and serve a copy on all parties. Such a document should be captioned
23 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
24 objections shall be filed and served within fourteen days after service of the objections. The
25 parties are advised that failure to file objections within the specified time may waive the right to

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1 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

2 DATED: July 1, 2014

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4 ALLISON CLAIRE
5 UNITED STATES MAGISTRATE JUDGE
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