



1 On November 26, 2013, plaintiff filed a three-page handwritten document that appears to  
2 have been in response to the undersigned's OSC. (Response, ECF No. 5.) Plaintiff's filing  
3 vaguely rehashes some of the allegations in her complaint, but the filing is not labeled as an  
4 amended complaint, and the undersigned does not construe it as such. Plaintiff's filing thus fails  
5 to satisfy the portion of the OSC requiring her to file an amended pleading by November 30,  
6 2013.

7 However, plaintiff's Response indicates that plaintiff "never received court documents  
8 filed on 8.9.13," and "never received this specific order dated 8.9.13." (Id. at 2.) Taking  
9 plaintiff at her word and accepting that she never received the court's order of August 9, 2013, the  
10 undersigned will not sanction plaintiff for failing to timely file an amended pleading in  
11 compliance with that order. Instead, the undersigned directs the Clerk of the Court to send  
12 plaintiff another copy of the relevant order (ECF No. 3), and will give plaintiff a third opportunity  
13 to file an amended pleading in accordance therewith.<sup>2</sup>

14 The undersigned warns plaintiff that, *in the event she fails to timely file the requisite*  
15 *amended pleading*, the court is inclined to recommend the dismissal of plaintiff's action with  
16 prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute, failure to  
17 comply with the Federal Rules of Civil Procedure, and failure to comply with this court's order of  
18 August 9, 2013 (ECF No. 3), which is incorporated by reference herein. Eastern District Local  
19 Rule 110 provides that "[f]ailure of counsel or of a party to comply with these Rules or with any  
20 order of the Court may be grounds for imposition by the Court of any and all sanctions authorized  
21 by statute or Rule or within the inherent power of the Court." Moreover, Eastern District Local

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23 <sup>2</sup> The undersigned notes that it is plaintiff's responsibility to make sure that the Clerk of the  
24 Court has her up-to-date mailing address and contact information. E.D. Cal. L.R. 183(b) ("A  
25 party appearing in propria persona shall keep the Court and opposing parties advised as to his or  
26 her current address. If mail directed to a plaintiff in propria persona by the Clerk is returned by  
27 the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within  
28 sixty-three (63) days thereafter of a current address, the Court may dismiss the action without  
prejudice for failure to prosecute.") The court's electronic docket does not reflect that any court  
documents have been returned to the court by the U.S. Postal Service; however, if plaintiff  
believes her mailing address is inaccurate such that she is not receiving court orders, she should  
contact the Clerk of the Court and update the address.

1 Rule 183(a) provides, in part:

2 Any individual representing himself or herself without an attorney  
3 is bound by the Federal Rules of Civil or Criminal Procedure, these  
4 Rules, and all other applicable law. All obligations placed on  
5 “counsel” by these Rules apply to individuals appearing in propria  
6 persona. Failure to comply therewith may be ground for dismissal  
7 . . . or any other sanction appropriate under these Rules.

8 See also King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987) (“Pro se litigants must follow the  
9 same rules of procedure that govern other litigants.”). Case law is in accord that a district court  
10 may impose sanctions, including involuntary dismissal of a plaintiff’s case with prejudice  
11 pursuant to Federal Rule of Civil Procedure 41(b), where that plaintiff fails to prosecute his or her  
12 case or fails to comply with the court’s orders. See Chambers v. NASCO, Inc., 501 U.S. 32, 44  
13 (1991) (recognizing that a court “may act *sua sponte* to dismiss a suit for failure to prosecute”);  
14 Hells Canyon Preservation Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)  
15 (stating that courts may dismiss an action pursuant to Federal Rule of Civil Procedure 41(b) *sua*  
16 *sponte* for a plaintiff’s failure to prosecute or comply with the rules of civil procedure or the  
17 court’s orders); Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992) (“Pursuant to Federal  
18 Rule of Civil Procedure 41(b), the district court may dismiss an action for failure to comply with  
19 any order of the court.”), cert. denied, 506 U.S. 915 (1992); Thompson v. Housing Auth. of City  
20 of L.A., 782 F.2d 829, 831 (9th Cir. 1986) (per curiam) (stating that district courts have inherent  
21 power to control their dockets and may impose sanctions including dismissal), cert. denied, 479  
22 U.S. 829 (1986).

23 Accordingly, IT IS HEREBY ORDERED THAT:

- 24 1. Insofar as plaintiff’s failure to timely file an amended pleading was caused by her non-  
25 receipt of the court’s order requiring such pleading (ECF No. 3), the undersigned will  
26 not sanction plaintiff at this time. The portion of the Order to Show Cause (ECF No.  
27 4) requiring plaintiff to amend her pleading remains undischarged.
- 28 2. Along with a copy of this order, the Clerk of the Court shall *also* mail plaintiff a copy  
of the order previously issued on August 9, 2013 (ECF No. 3).
3. On or before **February 6, 2014**, plaintiff shall file an amended complaint that

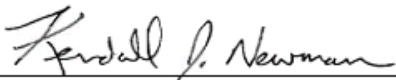
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addresses the issues raised in the court's order issued on August 9, 2013 (ECF No. 3).

4. *Plaintiff's failure to file the amended complaint by the deadline of February 6, 2014, shall constitute an additional ground for, and plaintiff's consent to, the imposition of appropriate sanctions, including a recommendation that plaintiff's case be involuntarily dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b) and Local Rules 110 and 183(a).*

IT IS SO ORDERED.

Dated: January 3, 2014

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE