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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SANDRA L. SILVA,

Plaintiff,

v.

COUNTY OF SOLANO, et al.,

Defendants.

No. 2:13-cv-02165-MCE-EFB

ORDER

On October 17, 2013, Plaintiff Sandra L. Silva (“Plaintiff”) filed a Complaint against Defendants County of Solano, Debbie Terry-Butler, Patrick Duterte and Roxanne Martin (collectively, “Defendants”) alleging civil rights, employment discrimination, wrongful termination and retaliation claims. See Compl., ECF No. 2. On June 27, 2014, Defendants moved to dismiss Plaintiff’s First, Second, Third, Fourth, Fifth and Sixth claims against Defendants Debbie Terry-Butler, Patrick Duterte and Roxanne Martin and Plaintiff’s Second and Sixth claims against Defendant County of Solano. Mot., ECF No. 11.¹ This motion was set to be heard on August 7, 2014. Id. Pursuant to Local Rule

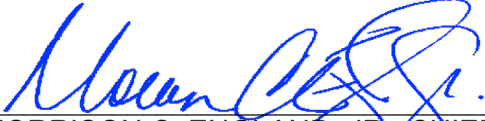
¹ A review of the docket indicates that the Defendants waived service of summons in October 2013, but they did not move to dismiss Plaintiff’s Complaint until June 2014. See ECF Nos. 7-10. Nonetheless, Defendants’ motion appears to be timely. The Ninth Circuit allows a 12(b) motion any time before a responsive pleading has been filed. See Aetna Life Ins. Co. v. Alla Medical Services, Inc., 855 F.2d 1470, 1474 (9th Cir.1988) (citing Bechtel v. Liberty Nat’l Bank, 534 F.2d 1335, 1340-41 (9th Cir.1976)). In any event, Plaintiff did not object to the timing of Defendants’ motion.

1 230(c), the opposition to a motion must be filed not less than fourteen (14) days prior to
2 the date of the hearing. Defendants' Motion is currently unopposed.²

3 In light of the fact that no opposition or statement of non-opposition was filed as
4 required under the local rules, Defendants' Motion to Dismiss, ECF No. 11, is GRANTED
5 with leave to amend and the August 7, 2014 hearing is VACATED. Plaintiff may (but is
6 not required to) file an amended complaint, not later than twenty (20) days after the date
7 this Memorandum and Order is filed electronically. If Plaintiff does not file an amended
8 complaint within said twenty (20)-day period, without further notice, all of the claims
9 dismissed pursuant to this Order will be dismissed with prejudice.

10 IT IS SO ORDERED.

11 Dated: July 28, 2014

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15 MORRISON C. ENGLAND, JR., CHIEF JUDGE
16 UNITED STATES DISTRICT COURT
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28 ² According to Defendants, Plaintiff's counsel informed Defendants' counsel via email on
December 18, 2013 that he would be filing an amended complaint, yet never did so. See ECF Nos. 11-2
at 2; 11-3 at 4.