



1 quotation marks and citation omitted). A partial dismissal order does not qualify as a “final  
2 order” for purposes of appeal. Nascimento v. Dummer, 508 F.3d 905, 908 (9th Cir. 2007). See  
3 also Adonican v. City of Los Angeles, 297 F.3d 1106, 1108 (9th Cir. 2002) (“Once all claims  
4 against all parties have been decided on the merits . . . the parties will then be entitled to seek  
5 review from this Court.”). An interlocutory appeal of a non-final order may, however, be  
6 certified if the district court determines that “such order involves a controlling question of law as  
7 to which there is substantial ground for difference of opinion and that an immediate appeal from  
8 the order may materially advance the ultimate termination of the litigation.” 28 U.S.C. § 1292(b);  
9 In re Cement Antitrust Litig., 673 F.2d 1020, 1026 (9th Cir. 1982).

10 Here, plaintiff does not argue that the order dismissing plaintiff’s claims of race-based  
11 discrimination and hostile work environment involved a controlling question of law as to which  
12 there is substantial ground for difference of opinion and no differences of opinion are apparent to  
13 the court. In this regard, plaintiff’s claims based upon her allegations of race-based  
14 discrimination and hostile work environment were dismissed because she failed to exhaust those  
15 claims prior to commencing this action as required. See generally Shah v. Mt. Zion Hospital and  
16 Medical Center, 642 F.2d 268, 271 (9th Cir. 1981) (“Prior to instituting suit, Shah filed an EEOC  
17 complaint alleging sex and national origin discrimination. At trial Shah attempted to expand his  
18 Title VII action to include race, color and religious discrimination. The district court lacked  
19 subject matter jurisdiction over these additional claims because Shah failed to raise them before  
20 the EEOC.”); Wilson-Combs v. California Dept. of Consumer Affairs, 555 F.Supp.2d 1110, 1116  
21 (E.D. Cal. 2008) (“If simply alleging the race-based allegations in this action following her failure  
22 to properly exhaust her administrative remedy were deemed sufficient, it would allow plaintiff to  
23 bypass, and thus defeat, the exhaustion requirement-the purpose of which is to give the  
24 administrative agency the opportunity to investigate, mediate, and take remedial action.”). For

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1 the reasons stated above, plaintiff's motions to stay this action and to proceed in forma pauperis  
2 on appeal will be denied.<sup>1</sup>

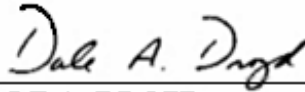
3 Accordingly, IT IS ORDERED that:

4 1. Plaintiff's September 11, 2015 motion for an extension of time (Dkt. No. 30) is  
5 denied without prejudice;

6 2. Plaintiff's September 14, 2015 motion to stay (Dkt. No. 31) is denied without  
7 prejudice; and

8 3. Plaintiff's September 14, 2015 motion to proceed in forma pauperis (Dkt. No.  
9 32) is denied without prejudice.

10 Dated: September 23, 2015

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13 DALE A. DROZD  
14 UNITED STATES MAGISTRATE JUDGE

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27 <sup>1</sup> In light of plaintiff's pro se status, the motions will be denied without prejudice to their  
28 renewal. Plaintiff, however, should not file a motion seeking certification for appeal of a non-  
final order until she has researched the matter and drafted an appropriate motion which addresses  
the requirements noted above.