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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 JOEANN SMITH-DURONCELET,

12 Plaintiff,

13 v.

14 PLACER COUNTY COURT, et al.,

15 Defendants.
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No. 2:14-cv-2358 MCE DAD PS

FINDINGS AND RECOMMENDATIONS

18 Plaintiff Joeann Smith-Duroncelet is currently proceeding pro se in this action.

19 Accordingly, the case has been referred to the undersigned pursuant to Local Rule 302(c)(21).

20 On December 11, 2014, the court issued an order setting a Status (Pretrial Scheduling)
21 Conference before the undersigned on February 13, 2015. (Dkt. No. 5.) Pursuant to that order,
22 plaintiff was to file and serve a written status report on or before January 30, 2015. The order
23 also advised plaintiff that:

24 failure to file a timely status report, or failure to appear at the status
25 conference either in person or telephonically, may result in an order
imposing an appropriate sanction. See Local Rules 110 and 183.

26 (Id. at 2.)

27 Nonetheless, plaintiff failed to file a timely status report and also failed to appear at the
28 February 13, 2015 Status (Pretrial Scheduling) Conference scheduled by order issued in this

1 action. Accordingly, on February 17, 2015, the undersigned issued an order to show cause in
2 writing within fourteen days as to why this action should not be dismissed for lack of prosecution.
3 (Dkt. No. 7.) Plaintiff was cautioned that failure to file a written response to that order would
4 result in the undersigned recommending that this matter be dismissed. (Id.) Nonetheless, the
5 time for plaintiff to respond has expired and plaintiff has not responded to the court's order in any
6 way.

7 ANALYSIS

8 The factors to be weighed in determining whether to dismiss a case for lack of prosecution
9 are as follows: (1) the public interest in expeditious resolution of litigation; (2) the court's need
10 to manage its docket; (3) the risk of prejudice to the defendant; (4) the public policy favoring
11 disposition on the merits; and (5) the availability of less drastic sanctions. Hernandez v. City of
12 El Monte, 138 F.3d 393, 398 (9th Cir. 1998); Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir.
13 1992); Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988). Dismissal is a harsh penalty that
14 should be imposed only in extreme circumstances. Hernandez, 138 F.3d at 398; Ferdik, 963 F.2d
15 at 1260.

16 Failure of a party to comply with any order of the court "may be grounds for imposition
17 by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of
18 the Court." Local Rule 110. Any individual representing himself or herself without an attorney
19 is nonetheless bound by the Federal Rules of Civil Procedure, the Local Rules, and all applicable
20 law. Local Rule 183(a). A party's failure to comply with applicable rules and law may be
21 grounds for dismissal or any other sanction appropriate under the Local Rules. Id.

22 Here, plaintiff failed to file a status report, failed to appear at the Status (Pretrial
23 Scheduling) Conference and failed to respond to the court's order to show cause, in violation of
24 this court's orders and multiple provisions of the Local Rules. Moreover, the order to show cause
25 specifically warned plaintiff that the failure to file a written response to that order would result in
26 a recommendation that this matter be dismissed.

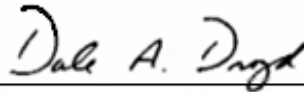
27 Plaintiff's lack of prosecution of this case renders the imposition of monetary sanctions
28 futile. Moreover, the public interest in expeditious resolution of litigation, the court's need to

1 manage its docket, and the risk of prejudice to the defendants all support the imposition of the
2 sanction of dismissal. Only the public policy favoring disposition on the merits counsels against
3 dismissal. However, plaintiff's failure to prosecute the action in any way makes disposition on
4 the merits an impossibility. The undersigned will therefore recommend that this action be
5 dismissed due to plaintiff's failure to prosecute as well as the failure to comply with the court's
6 orders. See FED. R. CIV. P. 41(b).

7 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff's October 8, 2014
8 complaint (Dkt. No. 1) be dismissed without prejudice.

9 These findings and recommendations will be submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
11 days after being served with these findings and recommendations, plaintiff may file written
12 objections with the court. A document containing objections should be titled "Objections to
13 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
14 objections within the specified time may, under certain circumstances, waive the right to appeal
15 the District Court's order. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

16 Dated: March 26, 2015

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20 DALE A. DROZD
21 UNITED STATES MAGISTRATE JUDGE

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