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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIBEL DOMANTAY,
Plaintiff,
v.
NDEX WEST, LLC, et al.,
Defendants.

No. 2:15-cv-0788-MCE-KJN PS

ORDER

On June 9, 2015, the undersigned issued findings and recommendations recommending that this case be dismissed pursuant to Federal Rule of Civil Procedure 41(b) based on plaintiff’s multiple failures to timely file an opposition or statement of non-opposition to defendant World Savings Bank’s (“defendant”) pending motion to dismiss. (ECF No. 11.) On June 11, 2015, one week after the extended filing deadline set by the court’s May 11, 2015 order, plaintiff filed an opposition to defendant’s motion to dismiss. (ECF No. 12.) It appears that plaintiff filed her untimely opposition under the erroneous belief that she was required to file by June 11, 2015, the deadline the court set in its June 9, 2015 order for defendant to file its reply brief.

In light of plaintiff’s pro se status and the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits, see Eitel v. McCool, 782 F.2d 1470, 1472 (9th Cir. 1986) (“Cases should be decided upon their merits whenever reasonably possible.”), the court will vacate the June 9, 2015 findings and recommendations recommending dismissal of this

1 action with prejudice in order to address defendant's motion to dismiss on the merits.¹ Because
2 defendant has filed a reply to plaintiff's opposition addressing plaintiff's opposition on the merits,
3 (ECF No. 13), no further briefing regarding defendant's motion to dismiss will be permitted.
4 Furthermore, after reviewing the parties' briefing, the court concludes that oral argument would
5 not be of material assistance in resolving defendant's motion to dismiss. Accordingly, this
6 motion is submitted on the record and briefing pursuant to Local Rule 230(g). If the court
7 subsequently determines that oral argument is necessary, it will set a hearing by separate order.


8 Based on the foregoing, IT IS HEREBY ORDERED that:

9 1. The June 9, 2015 findings and recommendations (ECF No. 11) recommending
10 dismissal of this action with prejudice pursuant to Federal Rule of Civil Procedure 41(b) are
11 VACATED.

12 2. Defendant's motion to dismiss (ECF No. 7) is submitted on the record and briefing
13 pursuant to Local Rule 230(g). If the court subsequently determines that oral argument is
14 necessary, it will set a hearing by separate order. No further briefing with regard to this motion
15 will be permitted unless directed by the court via subsequent order.

16 IT IS SO ORDERED.

17 Dated: June 24, 2015

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19 _____
20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE

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27 ¹ Plaintiff is admonished that the court will not act so leniently with respect to any future failures
28 on plaintiff's part to comply with any deadlines or other orders issued by the court. ***Any future failures to comply with such orders will result in a recommendation that plaintiff's entire action be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b).***