

1 opportunity to amend her pleading within 28 days. (Id.)

2 It has been more than 28 days since the court's April 1, 2016 order granting plaintiff leave
3 to amend. (ECF No. 6.) To date, plaintiff has not filed a second amended complaint.

4 Accordingly, the court is inclined to recommend, on its own motion, the dismissal of plaintiff's
5 action with prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute,
6 failure to comply with the Federal Rules of Civil Procedure, and failure to comply with this
7 court's order (ECF No. 6), which is incorporated by reference herein. Eastern District Local Rule
8 110 provides that "[f]ailure of counsel or of a party to comply with these Rules or with any order
9 of the Court may be grounds for imposition by the Court of any and all sanctions authorized by
10 statute or Rule or within the inherent power of the Court." Moreover, Eastern District Local Rule
11 183(a) provides, in part:

12 Any individual representing himself or herself without an attorney
13 is bound by the Federal Rules of Civil or Criminal Procedure, these
14 Rules, and all other applicable law. All obligations placed on
15 "counsel" by these Rules apply to individuals appearing in propria
16 persona. Failure to comply therewith may be ground for dismissal
17 . . . or any other sanction appropriate under these Rules.

18 See also King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987) ("Pro se litigants must follow the
19 same rules of procedure that govern other litigants."). Case law is in accord that a district court
20 may impose sanctions, including involuntary dismissal of a plaintiff's case with prejudice
21 pursuant to Federal Rule of Civil Procedure 41(b), where that plaintiff fails to prosecute his or her
22 case or fails to comply with the court's orders. See Chambers v. NASCO, Inc., 501 U.S. 32, 44
23 (1991) (recognizing that a court "may act *sua sponte* to dismiss a suit for failure to prosecute");
24 Hells Canyon Preservation Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
25 (stating that courts may dismiss an action pursuant to Federal Rule of Civil Procedure 41(b) *sua*
26 *sponte* for a plaintiff's failure to prosecute or comply with the rules of civil procedure or the
27 court's orders); Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992) ("Pursuant to Federal
28 Rule of Civil Procedure 41(b), the district court may dismiss an action for failure to comply with
any order of the court."), cert. denied, 506 U.S. 915 (1992); Thompson v. Housing Auth. of City
of L.A., 782 F.2d 829, 831 (9th Cir. 1986) (per curiam) (stating that district courts have inherent

1 power to control their dockets and may impose sanctions including dismissal), cert. denied, 479
2 U.S. 829 (1986).

3 Nevertheless, in light of plaintiff's *pro se* status, the court will provide plaintiff with one
4 final opportunity to file a second amended complaint in compliance with the court's April 1, 2016
5 order (ECF No. 6). Plaintiff is also directed to file with the court a separate statement explaining
6 her failure to comply with the court's April 1, 2016 order and why this case should not be
7 dismissed based on that failure. ***Plaintiff is cautioned that, given her history in this action of***
8 ***failing to follow court orders, thus necessitating the issuance of multiple OSCs even at this***
9 ***early stage of the litigation, failure to follow this order by timely filing a second amended***
10 ***complaint and a separate writing explaining her previous failure to timely file such a pleading***
11 ***will result in a recommendation that this entire action be involuntarily dismissed with prejudice***
12 ***pursuant to Federal Rule of Civil Procedure 41(b) and Local Rules 110 and 183(a).***


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

- 14 1. By no later than **June 2, 2016**, plaintiff shall show cause in writing why this case
15 should not be dismissed for plaintiff's failure to prosecute the action and failure to
16 comply with the court's order of January 4, 2016 (ECF No. 3).
- 17 2. On or before **June 2, 2016**, plaintiff shall file an amended complaint that addresses
18 the issues raised in the court's screening order entered on January 4, 2016 (ECF
19 No. 3).
- 20 3. ***Plaintiffs' failure to file the required writing and amended complaint shall***
21 ***constitute an additional ground for, and plaintiffs' consent to, the imposition of***
22 ***appropriate sanctions, including a recommendation that plaintiffs' case be***
23 ***involuntarily dismissed with prejudice pursuant to Federal Rule of Civil***
24 ***Procedure 41(b) and Local Rules 110 and 183(a).***

25 IT IS SO ORDERED.

26 Dated: May 4, 2016

27 KJN/amd
28


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE