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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANGELICA FRANCES,

 Plaintiff,

 v.

ACCESSIBLE SPACE, INC., et al.,

 Defendants.

No. 2:16-cv-01016 JAM AC (PS)

ORDER

Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned by Local Rule 302(c)(21). On March 4, 2019, defendants filed a motion to dismiss for failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b). ECF No. 53. Plaintiff did not respond to the motion. The undersigned continued the hearing on the motion from April 3, 2019 to May 1, 2019 to give plaintiff another chance to file an opposition or statement of non-opposition; the new deadline was April 17, 2019. ECF No. 54.

On April 17, 2019, plaintiff filed two documents. ECF Nos. 55, 56. The first has been docketed as a Motion for Extension of Time, and the caption contains several requests for more time to file a response in opposition to the motion to dismiss. ECF No. 55 at 1. However, the central heading of the document reads, "Plaintiff's Response in Opposition to Defendants Accessible Space Inc., South Lake Tahoe Supportive Housing Inc's Motion to Dismiss the First Amended Complaint," and the bulk of plaintiff's arguments are responsive to defendants'

1 assertions of delay in support of their Rule 41(b) motion to dismiss. Id. at 1-6. Further, plaintiff
2 attaches an incomplete Certificate of Service describing the foregoing as a “Response in
3 Opposition to Defendants’ Motion to Dismiss FAC.” Id. at 8. The court therefore construes this
4 document as plaintiff’s opposition to defendants’ motion to dismiss. The Clerk of the Court is
5 instructed to file an additional copy of this document (ECF No. 55) as plaintiff’s Opposition to
6 the pending motion to dismiss (ECF No. 53).

7 In the same document, plaintiff additionally requests that the May 1, 2019 hearing be
8 continued until June or July. ECF No. 55 at 1, 4. She states that she did not respond until
9 April 17 because she did not receive the court’s order continuing the hearing on the motion until
10 April 12, 2019 due to ongoing issues with mail delivery at her home address. Id. at 3-4. She
11 further states that she is disabled and “very ill right now, and under medical care,” citing a severe
12 respiratory infection. Id. at 5-6.

13 The second document filed the same day is a “notice . . . to inform the court of delays in
14 compliance due to a medical emergency.” Plaintiff describes a July 2018 injury to her right hand,
15 requiring her continued use of a “cast/brace” which has made typing and other tasks difficult.
16 ECF No. 56 at 1-2. She attaches various medical records related to the hand injury, and
17 documentation of her complaints to the postal service. Id. at 4-35.

18 The court acknowledges that plaintiff is proceeding under various health limitations.
19 However, given that the hearing on the motion has already been continued for nearly one month,
20 and that plaintiff has in fact filed a timely and responsive opposition to the motion, the court
21 declines to extend the proceedings further. Plaintiff may arrange a telephonic appearance at the
22 hearing by contacting the Courtroom Deputy at (916) 930-4199 at least two days prior to the
23 hearing date. Alternatively, if plaintiff informs the court in advance that she is unable to appear
24 either in person or by telephone, the motion will be submitted without oral argument pursuant to
25 Local Rule 230(g).

26 Good cause appearing, IT IS HEREBY ORDERED that:

- 27 1. Plaintiff’s motion for an extension of time (ECF No. 55) is DENIED;
- 28 2. The Clerk of Court shall file an additional copy of ECF No. 55, to be docketed as

1 plaintiff's Opposition to the pending motion to dismiss (ECF No. 53), with a filing
2 date of April 17, 2019;

- 3 3. The hearing on the motion to dismiss will remain scheduled for May 1, 2019, at
4 10:00 a.m. in Courtroom No. 26;
- 5 4. Plaintiff may arrange a telephonic appearance at the hearing by contacting the
6 Courtroom Deputy at (916) 930-4199 at least two days prior to the hearing date;
- 7 5. Alternatively, if plaintiff informs the court in advance that she is unable to appear
8 either in person or by telephone, the motion will be submitted without oral
9 argument;
- 10 6. Otherwise, failure to appear at the hearing will be deemed a withdrawal of
11 opposition and shall result in a recommendation that this action be dismissed
12 pursuant to Federal Rule of Civil Procedure 41(b);
- 13 7. Defendants may file a reply not less than seven days before the hearing date; and
- 14 8. The deadline for hearing substantive pretrial motions set in ECF No. 54 is hereby
15 AMENDED to June 1, 2019.

16 DATED: April 19, 2019

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18 ALLISON CLAIRE
19 UNITED STATES MAGISTRATE JUDGE
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