1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 ANGELICA FRANCES, No. 2:16-cv-01016 JAM AC (PS) 12 Plaintiff. 13 **ORDER** v. 14 ACCESSIBLE SPACE, INC., et al., 15 Defendants. 16 17 Plaintiff is proceeding in this action pro se. The action was accordingly referred to the 18 undersigned by Local Rule 302(c)(21). On March 4, 2019, defendants filed a motion to dismiss 19 for failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b). ECF No. 53. Plaintiff 20 did not respond to the motion. The undersigned continued the hearing on the motion from 21 April 3, 2019 to May 1, 2019 to give plaintiff another chance to file an opposition or statement of 22 non-opposition. ECF No. 54. On April 17, 2019, plaintiff filed a document which the court 23 construed as her opposition to defendants' motion to dismiss. ECF Nos. 55, 57, 58. 24 The matter came on for hearing today, May 1, 2019. Defense counsel appeared, but 25

The matter came on for hearing today, May 1, 2019. Defense counsel appeared, but plaintiff did not appear. Plaintiff had contacted the Courtroom Deputy regarding the hearing, and was instructed that if she wished to appear telephonically, she would have to say so and make the necessary arrangements. The Courtroom Deputy never heard back from plaintiff.

////

26

27

28

	ш
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	

In an order dated April 19, 2019, the undersigned informed plaintiff that her failure to appear, either in person or by telephone, at the May 1, 2019 hearing would result in a recommendation that the action be dismissed. ECF No. 57. Given plaintiff's absence, the court is fully prepared to recommend that the case be dismissed under Rule 37(b) and/or Rule 41(b) of the Federal Rules of Civil Procedure. However, the court will delay doing so for 14 days from the date of this order to give plaintiff a final opportunity to provide her long-awaited discovery materials and schedule her deposition.

Good cause appearing, IT IS HEREBY ORDERED that:

- 1. Within 14 days of this order, plaintiff shall provide defense counsel with copies of all discovery materials referenced her Rule 26 initial disclosures;
- 2. Within 14 days of this order, the parties shall confirm a date for plaintiff to be deposed, to be scheduled on a date within 30 days of this order;
- 3. After the 14 days have expired, defense counsel shall file with the court a status report advising whether the above deadlines were met;
- 4. Within 30 days of this order, plaintiff shall appear at her deposition as scheduled; and
- 5. Plaintiff's failure to fully comply with each of the above deadlines shall result in a recommendation that the case be dismissed under Rule 37(b) and/or Rule 41(b).

DATED: May 1, 2019

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE