

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

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BERTA MUNDAY,
Plaintiff,
v.
BANK OF AMERICA, NA, et al.,
Defendants.

No. 2:17-cv-1216-KJM-KJN PS

ORDER

On October 31, 2017, the court granted defendant Chase’s motion to dismiss and dismissed plaintiff’s complaint, but with leave to amend. (ECF No. 25.) Plaintiff was ordered, within 28 days, to file either a first amended complaint or a request for voluntary dismissal of the action without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). (Id.) Plaintiff was also expressly cautioned that failure to timely comply with the court’s order may result in dismissal of the action with prejudice pursuant to Federal Rule of Civil Procedure 41(b). (Id.)


Although the applicable deadline has now long passed, plaintiff failed to file either a first amended complaint or a request for voluntary dismissal of the action. The court has considered whether the action should be dismissed at this juncture. Nevertheless, in light of plaintiff’s *pro se* status and the court’s desire to resolve the action on the merits, the court first imposes lesser

1 monetary sanctions and provides plaintiff with one additional, final opportunity to file an
2 amended complaint.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. Within 21 days of this order, plaintiff shall pay the Clerk of Court \$100.00 in
5 monetary sanctions based on her failure to comply with court orders and failure to
6 prosecute the case.
- 7 2. Within 21 days, plaintiff shall file a first amended complaint in compliance with the
8 court's October 31, 2017 order.
- 9 3. Alternatively, and in lieu of paying the sanctions and filing a first amended complaint,
10 plaintiff may file a request for voluntary dismissal of the action without prejudice
11 within 21 days of this order.
- 12 4. Failure to timely comply with this order will result in dismissal of the action with
13 prejudice pursuant to Federal Rule of Civil Procedure 41(b).

14 Dated: December 12, 2017

15 
16 _____
17 KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE
19
20
21
22
23
24
25
26
27
28