

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

KIRAN RAWAT,
Plaintiff,
v.
TAMMY FERNANDES, et al.,
Defendants.

No. 2:17-cv-02100-KJM-KJN (PS)

ORDER

On February 22, 2018, plaintiff failed to appear at the status (pre-trial scheduling) conference. (ECF No. 4.) On the same day, she requested an entry of default and default judgment against defendants. (ECF No. 5.) The court subsequently ordered plaintiff to show cause in writing why sanctions should not be imposed for her failure to appear. (ECF No. 6.)

Plaintiff responded, indicating that she forgot about the status conference, due to illness and her pro se status. (See ECF No. 7.) Plaintiff's failure to remember is not a sufficient excuse, especially in light of the fact that she filed her default request on the same day she was required to appear at the status conference. Moreover, the court previously warned plaintiff that pro se litigants must comply with the procedural rules of the court. (See ECF No. 3 at 3.)

As to plaintiff's request for entry of default and default judgment (ECF No. 5), it appears that this is a procedurally deficient motion for default judgment. Preliminarily, it is not clear whether plaintiff has properly served defendants in this matter. Furthermore, the Clerk of Court

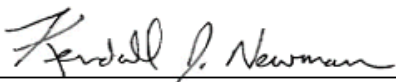
1 has not entered default as to defendants. As such, plaintiff's request is premature.

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. Plaintiff's request for entry of default and default judgment (ECF No. 5) is DENIED
4 as premature.
- 5 2. **Within 14 days of this order**, plaintiff shall pay a total of \$100 in monetary sanctions
6 to the Clerk of Court, based upon her failure to appear at the February 22, 2018 status
7 (pre-trial scheduling) conference.
- 8 3. The status (pre-trial scheduling) conference is reset for **Thursday, May 3, 2018, at**
9 **10:00 a.m.**, in Courtroom No. 25, before the undersigned. All parties shall appear by
10 counsel or in person if acting without counsel.
- 11 4. **On or before April 26, 2018**, the parties shall file status reports pursuant to the
12 directions set forth in the court's October 11, 2017 order setting status conference
13 (ECF No. 3).
- 14 5. At the May 3, 2018 status conference, plaintiff shall be prepared to discuss, and
15 support with documentation, that defendants have been properly served, as directed in
16 the court's October 11, 2017 order (ECF No. 3).
- 17 6. Failure to comply with this order shall constitute grounds for the imposition of
18 additional sanctions, including a potential recommendation that plaintiff's case be
19 involuntarily dismissed with prejudice pursuant to Federal Rule of Civil Procedure
20 41(b) and Local Rules 110 and 183(a).
- 21 7. The Clerk of Court shall provide a copy of the court's October 11, 2017 order (ECF
22 No. 3), along with this order.

23 IT IS SO ORDERED.

24 Dated: March 29, 2018

25 
26 _____
27 KENDALL J. NEWMAN
28 UNITED STATES MAGISTRATE JUDGE