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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHANELL S. WATKINS,

Plaintiff,

v.

DITECH FINANCIAL LLC FKA Green
Tree Servicing LLC; FEDERAL
NATIONAL MORTGAGE
ASSOCIATION; NBS DEFAULT
SERVICES, LLC; and DOES 1 through
20, inclusive,

Defendants.

No. 2:17-cv-2247-MCE-EFB PS

ORDER AND ORDER TO SHOW CAUSE

Defendant Federal National Mortgage Association (“Fannie Mae”) filed a motion for summary judgment, which is currently noticed for hearing on February 26, 2020.¹ ECF Nos. 38 & 45. Court records reflect that plaintiff has not filed an opposition or statement of non-opposition to the pending motion.

Local Rule 230(c) provides that opposition to the granting of a motion, or a statement of non-opposition thereto, must be served upon the moving party, and filed with this court, no later than fourteen days preceding the noticed hearing date or, in this instance, by February 12, 2020.

¹ This case, in which plaintiff is proceeding pro se, is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21). See 28 U.S.C. § 636(b)(1).

1 Local Rule 230(c) further provides that “[n]o party will be entitled to be heard in opposition to a
2 motion at oral arguments if opposition to the motion has not been timely filed by that party.”
3 Additionally, Local Rule 260(b) provides that “[a]ny party opposing a motion for summary
4 judgment or summary adjudication shall reproduce the itemized facts in the Statement of
5 Undisputed Facts and admit those facts that are undisputed and deny those that are disputed,
6 including with each denial a citation to the particular portions of any pleading, affidavit,
7 deposition, interrogatory answer, admission, or other document relied upon in support of that
8 denial.” Local Rule 260(b) further provides that “[t]he opposing party may also file a concise
9 ‘Statement of Disputed Facts,’ and the source thereof in the record, of all additional material facts
10 as to which there is a genuine issue precluding summary judgment or adjudication,” and that
11 “[t]he opposing party shall be responsible for the filing of all evidentiary documents cited in the
12 opposing papers.”

13 Finally, Local Rule 183, governing persons appearing in pro se, provides that failure to
14 comply with the Federal Rules of Civil Procedure and Local Rules may be grounds for dismissal,
15 judgment by default, or other appropriate sanctions. Local Rule 110 provides that failure to
16 comply with the Local Rules “may be grounds for imposition by the Court of any and all
17 sanctions authorized by statute or Rule or within the inherent power of the Court.” *See also*
18 *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (“Failure to follow a district court’s local rules
19 is a proper ground for dismissal.”). Pro se litigants are bound by the rules of procedure, even
20 though pleadings are liberally construed in their favor. *King v. Atiyeh*, 814 F.2d 565, 567 (9th
21 Cir. 1987).

22 Because plaintiff has failed to file an opposition or statement of non-opposition to Fannie
23 Mae’s motion for summary judgment, as required by Local Rule 230, and has failed to respond to
24 its statement of undisputed facts, as required by Local Rule 260, the hearing on motion for
25 summary judgment must be continued. Plaintiff is ordered to show cause why sanctions should
26 not be imposed for failure to timely file an opposition or a statement of non-opposition to the
27 pending motion and for failure to timely file a response to Fannie Mae’s statement of undisputed
28 facts. Plaintiff is also ordered to file an opposition to the motion or a statement of non-opposition

1 thereto and a response to Fannie Mae’s statement of undisputed facts. Failure to comply with this
2 order may result in a recommendation that Fannie Mae’s motion for summary judgment be
3 granted and/or the case dismissed for failure to prosecute, comply with court orders, and/or this
4 court’s Local Rules.² See Fed. R. Civ. P. 41(b).

5 The court informs plaintiff of the following with respect to opposing a motion for
6 summary judgment under Federal Rule of Civil Procedure 56: Such a motion is a request that the
7 court grant judgment in defendant’s favor without trial. A motion for summary judgment will set
8 forth the facts that defendant asserts are not reasonably subject to dispute and that entitle it to
9 judgment under applicable law. To oppose a motion for summary judgment, plaintiff may file
10 one or more affidavits or declarations setting forth the material facts that plaintiff believes are
11 subject to reasonable dispute, as long as the person who signs it has personal knowledge of the
12 facts stated. Plaintiff may rely on written records, but he must prove they are what plaintiff assert
13 them to be. Plaintiff may rely on all or any part of responses to discovery propounded in this
14 case, i.e., answers to interrogatories, admissions and deposition transcripts. If plaintiff fails to
15 contradict defendant’s evidence with counter-affidavits or other admissible evidence, the court
16 may accept defendant’s evidence as true and grant the motion. If there is good reason why such
17 facts are not available to plaintiff when they are required to oppose a motion for summary
18 judgment, the court will consider a request to postpone considering the motion. If plaintiff does
19 not file a written opposition to the motion or a request to postpone consideration of it, the court
20 may consider the failure to act as a waiver of opposition to the defendant’s motion. If the court
21 grants defendant’s motion, whether opposed or unopposed, judgment will be entered for
22 defendant without a trial and the case will be closed.

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26 ² Although plaintiff’s claims against defendant Ditech Financial are currently stayed
27 pursuant to 11 U.S.C. § 362(a), plaintiff is admonished that the entire action could be dismissed
28 for failure to prosecute should she fail to respond to this order. See *O’Donnell v. Vector Inc.*, 466
F.3d 1104, 1110 (9th Cir. 2006) (“[T]he district court has the power to dismiss a case for docket
management purposes under Rule 41(b) notwithstanding an automatic stay.”).

1 Accordingly, good cause appearing, it is hereby ORDERED that:

2 1. The hearing on defendant's motion for summary judgment (ECF No. 38) is continued
3 to April 8, 2020 at 10:00 a.m. in Courtroom No. 8.

4 2. Plaintiff shall show cause, in writing, no later than March 25, 2020, why sanctions
5 should not be imposed for failure to timely file an opposition or a statement of non-opposition to
6 the pending motion.

7 3. Plaintiff shall file an opposition to the motion, or a statement of non-opposition thereto,
8 no later than March 25, 2020.

9 4. Failure of plaintiff to file an opposition to the motion will be deemed a statement of
10 non-opposition thereto, and may result in a recommendation that defendant's motion be granted
11 and/or the case dismissed for failure to comply with court orders and this court's Local Rules.
12 *See* Fed. R. Civ. P. 41(b).

13 5. Defendant may file a reply to plaintiff's opposition, if any, on or before April 1, 2020.

14 DATED: February 20, 2020.

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16 EDMUND F. BRENNAN
17 UNITED STATES MAGISTRATE JUDGE
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