UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

FELIPE POLANCO DIAZ,

Plaintiff,

v.

MARIA TORCEDO,[1]

Defendant.

No. 2:21-cv-0916 KJM CSK P

ORDER

On August 5, 2024, defendant Torcedo filed a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56. Plaintiff did not oppose the motion.

Local Rule 230(l) provides in part: "Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion . . . ." Id. On February 7, 2024 (ECF No. 42), and August 5, 2024 (ECF No. 57-5), plaintiff was advised of the requirements for filing an opposition to a motion and that failure to oppose such a motion may be deemed a waiver of opposition to the motion. See Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998) (en banc); Klingele v. Eikenberry, 849 F.2d 409, 411-12 (9th Cir. 1988).

[1] On February 21, 2023, plaintiff filed a second amended complaint naming Maria Torcedo as the sole defendant. (ECF No. 24.) The Clerk of the Court is directed to change the case name to the caption set forth herein.

Local Rule 110 provides that failure to comply with the Local Rules "may be grounds for imposition of any and all sanctions authorized by statute or Rule or within the inherent power of the Court." Id. In the order filed February 7, 2024, plaintiff was also advised that failure to comply with the Local Rules may result in a recommendation that the action be dismissed.

Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

> **Involuntary Dismissal; Effect**. If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19--operates as an adjudication on the merits.

Id.

Good cause appearing, IT IS HEREBY ORDERED that:

1. Within thirty days from the date of this order, plaintiff shall file an opposition, if any, to the motion for summary judgment. Failure to file an opposition will be deemed as consent to have the: (a) action dismissed for lack of prosecution; and (b) action dismissed based on plaintiff's failure to comply with these rules and a court order. Said failure shall result in a recommendation that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

2. The Clerk of the Court is directed to change the case name to Diaz v. Maria Torcedo.

Dated: August 28, 2024

CHI SOO KIM
UNITED STATES MAGISTRATE JUDGE

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