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UNITED STATES DISTRICT COURT
Northern District of California

ELIZABETH KARNAZES,

Plaintiff(s),

v.

COUNTY OF SAN MATEO,

Defendant(s).

No. C 09-00767 MMC (MEJ)

**ORDER DISCHARGING THIRD
ORDER TO SHOW CAUSE**

ORDER RE MEET AND CONFER

On February 5, 2010, the Court ordered Plaintiff Elizabeth Karnazes to contact Defendant's counsel, David Silberman, within five days and provide her availability for a meet and confer session regarding certain outstanding discovery disputes. (Dkt. #42.) However, on February 12, 2010, Mr. Silberman filed a letter, (Dkt. #43), regarding Plaintiff's failure to comply with the February 5 Order, as well as her continued failure to comply with discovery obligations in general. Noting that Plaintiff's failure to diligently prosecute her case has been consistent and potentially cause for dismissal pursuant to Federal Rules of Civil Procedure 37(b)(2) and 41(b), the Court issued a third order to show cause against Plaintiff.

The Court is now in receipt of Plaintiff's declaration in response to the order to show cause, as well as Mr. Silberman's Declaration in Reponse. (Dkt. ##45, 46.) In her declaration, Plaintiff accepts no responsibility for her failure to comply with her discovery obligations in this case. Instead, she alleges that she has repeatedly tried to contact Mr. Silberman, but he won't return her calls; that she is unable to receive, read and download documents from the Court and Mr. Silberman; that she had been out of the country and any available internet connection was slow; that she can only use the "hunt and peck" method of typing; that she is not a skilled computer user and not adept at using the internet; and that she has not practiced in federal court in decades. (Dkt. #45.) The

1 Court finds that none of these excuses explain why Plaintiff has been unable to meet and confer in
2 person with Mr. Silberman, despite months of trying on his part. While not excusing Plaintiff's
3 behavior, the Court prefers that this case proceed on the merits and, accordingly, hereby ORDERS
4 as follows:

- 5 1) The third order to show cause is DISCHARGED.
- 6 2) If Plaintiff wishes to be excused from e-filing requirements in this case, she must
7 make her request before the presiding judge in this matter, the Honorable Maxine M.
8 Chesney.
- 9 3) By March 4, 2010 at 1:00 p.m., Plaintiff or her designee shall hand deliver to
10 Defendant's counsel at his address of record a written notice providing ten (10) time
11 periods within the following three (3) weeks (March 8, 2010 through March 29,
12 2010) that she is available to meet and confer in person. The 10 time periods shall
13 provide for at least three (3) consecutive hours each for the meet and confer session.
- 14 4) Plaintiff shall e-file the notice, as well as a proof of service, by March 4, 2010.
15 Alternatively, Plaintiff may manually file the notice and proof of service at the
16 Clerk's Office by 1:00 p.m. on March 4, 2010.
- 17 5) Upon receipt of Plaintiff's notice, Mr. Silberman shall choose one of the 10 available
18 time periods, and then inform Plaintiff of his choice by March 5, 2010 at 1 p.m. Mr.
19 Silberman shall also determine a reasonable place for the meet and confer session to
20 occur.
- 21 6) Mr. Silberman shall e-file a statement informing Plaintiff of his choice and he shall
22 also notify her by telephone at her phone number of record, either directly or by
23 voicemail message. Regardless of whether Plaintiff may later claim she received no
24 message from Mr. Silberman, she is on notice based on the e-filed statement.
- 25 6) No further confirmation is required. The parties shall thereafter meet and confer at
26 the agreed-upon time and make a good faith effort to resolve all outstanding
27 discovery disputes. Any unresolved disputes shall be submitted to the Court in
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compliance with the undersigned's discovery standing order.

- 7) In the event that it becomes necessary to file joint letters for any remaining disputes, the requesting party shall provide its portion to the objecting party first. The objecting party shall then have seven (7) days to provide her/its portion of any joint letter(s), and the requesting party shall then e-file the joint letter(s).

If Plaintiff fails to comply with any part of this Order, sanctions **SHALL** imposed.

IT IS SO ORDERED.

Dated: March 1, 2010



Maria-Elena James
Chief United States Magistrate Judge