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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MAXINE EPSTEIN,

Plaintiff,

v.

GMAC Mortgage LLC,

Defendant.

No. C 09-04431 JSW

ORDER IMPOSING SANCTIONS

On September 29, 2009, this Court issued two Orders setting briefing schedules on Motions to Dismiss filed by Defendant Green Point Mortgage and Defendant GMAC Mortgage, LLC. Pursuant to those Orders Plaintiff's opposition briefs to the motions were due on October 16, 2009. Plaintiff did not file an opposition to either motion in accordance with the Court's briefing schedule.

On October 22, 2009, the Court issued an Order requiring Plaintiff to show cause as to why this case should not be dismissed for failure to prosecute. Plaintiff's response was due by no later than October 30, 2009, and the Court advised Plaintiff that failure to respond to the Order would result in dismissal of this action without prejudice and without further notice to Plaintiff.

On October 29, 2009, Plaintiff filed an Amended Complaint, but did not file a response to the Order to Show Cause. Accordingly, on November 2, 2009, the Court issued a Further Order to Show Cause, because although the filing of the Amended Complaint demonstrated Plaintiff's intent to prosecute this action, Plaintiff did not explain her failure to comply with this

1 Court's briefing schedule on the motions to dismiss.

2 On November 6, 2009, Plaintiff filed her response, and stated that the failure to comply
3 with the Court's briefing schedule was attributable to personnel changes in her counsel's office,
4 and that counsel had not received notice of the briefing schedule. On November 12, 2009, after
5 reviewing the response, the Court discharged the Order to Show cause without taking further
6 action. However, the Court admonished Plaintiff that failure to comply with deadlines in the
7 future might result in sanctions being imposed.

8 In that same Order, the Court set a briefing schedule on Defendant GMAC Mortgage,
9 LLC's Motion to Dismiss Plaintiff's Amended Complaint, which Defendant had noticed for
10 hearing on January 15, 2010. The Court ordered that Plaintiff's opposition to the motion would
11 be due on December 4, 2009. Notwithstanding the Court's previous admonitions about failure
12 to comply with Court deadlines, Plaintiff again failed to comply with the briefing schedule set
13 by this Court.

14 Therefore, on December 14, 2009, the Court issued an Order to Show Cause why
15 sanctions should not be imposed for failure to comply with the Court's deadline. The Court has
16 received Plaintiff's response, in which counsel again attributes the failure to timely file an
17 opposition brief on "substantial structural changes to its operation as a law firm." The Court
18 does not find counsel's response acceptable and therefore shall impose monetary sanctions
19 against counsel in the amount of \$1000.00. Counsel shall pay these sanctions to the Clerk of
20 the Court by no later than February 16, 2010. Counsel shall also serve a copy of this Order on
21 the Office of the Chief Trial Counsel for The State Bar of California.

22 It is FURTHER ORDERED that this cost shall not be passed on to Plaintiff. However,
23 counsel shall provide a copy of this Order to Plaintiff. Because it appears to the Court that
24 Plaintiff herself is not at fault for the failure to file a timely opposition, it shall consider the late
25 filed opposition brief and shall decide the motion to dismiss on the merits.

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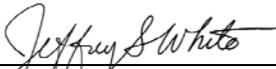
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1 The motion to dismiss is under submission and shall be resolved by separate order.

2 **IT IS SO ORDERED.**

3 Dated: February 4, 2010

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6 JEFFREY S. WHITE
7 UNITED STATES DISTRICT JUDGE

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