

United States District Court
For the Northern District of California

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

LUZ M. SANCHEZ,

No. C 09-04506 SI

Plaintiff,

**ORDER RESETTING HEARING ON
DEFENDANTS' MOTION TO DISMISS**

v.

U.S. BANK, N.A., et al.,

Defendants.

Defendants' motion to dismiss plaintiff's complaint for failure to state a claim was originally set for hearing on December 18, 2009. After plaintiff failed to file an opposition by the date required, the Court vacated the hearing and issued an order to show cause why this action should not be dismissed for failure to prosecute.

Plaintiff's counsel then filed a declaration stating that his failure to file a timely opposition was due to a combination of circumstances, including the timing of the deadline (the day after Thanksgiving), counsel's caseload, and the time needed for counsel to become a member of the bar of this Court. Although counsel should have obtained a stipulation from defense counsel when he determined these circumstances would prevent him from filing an opposition on time, counsel has shown to the Court's satisfaction that neither he nor plaintiff intended to abandon their prosecution of this suit. The Court finds that counsel has presented sufficient cause why the Court should not penalize his client by dismissing this action.


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Accordingly, defendant's motion to dismiss (Docket #15) is re-set for hearing on **Friday, February 26, 2010 at 9:00 a.m.** In accordance with the Local Rules, plaintiff's opposition to the motion to dismiss must be filed no later than three weeks before the scheduled hearing date, and defendant's optional reply no later than two weeks before the hearing.

IT IS SO ORDERED.

Dated: December 28, 2009



SUSAN ILLSTON
United States District Judge