

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

CARMELIA JOHNSON,

No. C 11-03628 SI

Plaintiff,

**ORDER GRANTING DEFENDANT’S
MOTION TO DISMISS**

v.

SUTTER DELTA MEDICAL CENTER,

Defendant.

On November 9, 2011, the Court granted defendant Sutter Delta Medical Center’s motion to dismiss *pro se* and *in forma pauperis* plaintiff Carmelia Johnson’s complaint, alleging racial discrimination during her visit to defendant’s emergency room. The Court granted plaintiff leave to file an amended complaint by December 9, 2011. Plaintiff did not file an amended complaint, nor did she contact the Court in any way. On December 21, 2011, defendant filed a motion to dismiss plaintiff’s claims against it pursuant to Fed. R. Civ. P. 41(b), which states that, “[i]f a 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 . . . operates as an adjudication on the merits.” Defendant’s motion was set for hearing on February 3, 2012. Plaintiff did not oppose defendant’s motion, nor did she appear at the hearing.

Because plaintiff failed to file an amended complaint, oppose defendant’s December 21, 2011 motion to dismiss, or appear at the hearing on that motion, defendant’s motion is GRANTED and plaintiff’s federal claims against defendant are DISMISSED WITH PREJUDICE, pursuant to Fed. R. Civ. P. 41(b). In its November 9, 2011 Order, the Court dismissed plaintiff’s action for failure to state a claim under the Fourteenth Amendment, and advised plaintiff that “tort actions against non-state actors

1 can be brought in state court.” *See* Doc. 21. The Court here dismisses with prejudice plaintiff’s federal
2 claims only; she is again advised that claims against non-state actors may be brought in state court.

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IT IS SO ORDERED.

Dated: February 3, 2012



SUSAN ILLSTON
United States District Judge