

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3
4 KIM E. TOLBERT,
5 Plaintiff,

6 v.

7 CITY & COUNTY OF SAN FRANCISCO
8 DEPARTMENT OF PUBLIC HEALTH, et
9 al.,
Defendants.

Case No. [3:16-cv-00810-JD](#)

ORDER RE MOTION TO SET ASIDE

Re: Dkt. No. 130

10 Plaintiff Tolbert's request to set aside the dismissal of this action, Dkt. No. 130, is denied.
11 The Court has detailed in prior orders Tolbert's long record of failing to appear at hearings and
12 settlement conferences, fulfill her discovery obligations, and meet the Court's deadlines. See Dkt.
13 Nos. 121, 123, 124. In response to the Court's multiple warnings about this unacceptable conduct,
14 Tolbert has at various times blamed ill health, the COVID pandemic, and a bad lawyer. In the
15 request to set aside the order dismissing her case for failing to respond to the Court's most recent
16 order to show cause, see Dkt. Nos. 124 and 128, Tolbert says she did not get a copy of the OSC
17 and that the Clerk's Office was closed to her due to the pandemic.

18 Neither claim is persuasive. To start, the ECF docket indicates that Tolbert routinely
19 received the Court's prior orders without a problem. Consequently, the Court declines to credit
20 Tolbert's assertion that the last OSC did not reach her. With respect to the Clerk's office, the
21 District made ECF filing available to all pro se litigants in May 2020. Tolbert did not avail herself
22 of that opportunity. In addition, the Clerk's office continued to process filings received by U.S.
23 mail during the occasional closures of the office to in-person visits. Tolbert was not denied access
24 to the Court in any way.

25 **IT IS SO ORDERED.**

26 Dated: January 5, 2022

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JAMES DONATO
United States District Judge

United States District Court
Northern District of California