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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DIANE ANANIAN, et al.,  
Plaintiffs,  
v.  
SABADELL UNITED BANK, N.A.,  
Defendant.

Case No. [16-cv-01535-MEJ](#)

**ORDER TO SHOW CAUSE**

Defendant’s counsel repeatedly has missed deadlines and failed to comply with Court Orders. *See* First Order to Show Cause, Dkt. No. 30 (citing prior failures). Based on counsel’s response to the First Order to Show Cause (Resp., Dkt. No. 36), the Court hit a “reset” button on August 8, 2016 and allowed the parties to move forward and litigate the merits of the case. Order, Dkt. No. 40. The Court specifically reserved “the right to sanction counsel for Defendant if he misses another deadline, ignores another court order, or fails to meaningfully participate in this action.” *Id.* at 1.

Prior to that Order, the Clerk of the Court had entered default against Defendant on August 2, 2016 as Defendant had yet to file a responsive pleading in the action. *See* Dkt. Nos. 35, 39. However, in the parties’ Joint Case Management Statement, filed on August 29, 2016, Defendant represented it would “promptly” file a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). Joint Case Mgmt. Stmt. at 9, 11, 12, 15, Dkt. No. 41.

On September 2, 2016, the Court acknowledged Defendant’s representation it would file a motion to dismiss “promptly” and noted that before filing the motion, Defendant would need to set aside the default that had been entered: “Unless the parties stipulate to doing so, Defendant must move to set aside the entry of default as soon as practicable if it intends to defend this action.

1 Should Defendant fail to do so, Plaintiffs may file a motion for default judgment.” Order re: Case  
2 Mgmt. Stmt., Dkt. No. 42. As of the date of this Order, Defendant has not moved to set aside the  
3 entry of default, nor has it moved to dismiss the action.

4 In view of the foregoing, the Court hereby **ORDERS** Defendant Sabadell United Bank,  
5 N.A., to show cause as to why the Court should not consider Defendant’s failure to comply with  
6 Court-ordered deadlines and failure to litigate this action as an admission that it does not intend to  
7 defend itself against Plaintiffs’ claims. Defendant shall file a declaration **by October 6, 2016**. If a  
8 responsive declaration is filed, the Court shall either issue an order based on the declaration or set  
9 a hearing. Notice is hereby provided that failure to file a written response will be deemed an  
10 admission that Defendant does not intend to defend this action and Plaintiffs may immediately file  
11 a motion for default judgment as well as a motion for attorney’s fees and costs.<sup>1</sup> Thus, it is  
12 imperative that the Court receive a written response by the deadline above.

13 **IT IS SO ORDERED.**

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15 Dated: September 26, 2016

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18 MARIA-ELENA JAMES  
19 United States Magistrate Judge

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<sup>1</sup> The Court is contemporaneously filing its Notice re: Default Judgment Procedure for Plaintiffs to  
utilize in the event Defendant does not comply with this Order.