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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANGELICA GARCIA,
Plaintiff,
v.
PASCUAL ZAVALA, et al.,
Defendants.

Case No. [17-cv-06253-MEJ](#)
ORDER TO SHOW CAUSE

At the May 24, 2018 initial Case Management Conference in this matter, counsel for Plaintiff Angelica Garcia represented that she does not name Miriam Arevalo as a defendant and that Ms. Arevalo is only named in Pascual Zavala’s crossclaim. May 24, 2018 FTR at 10:21 (Q. “What about Ms. Arevalo?” A. “I believe that’s Defendant’s, they’re trying to serve Ms. Arevalo on their crosscomplaint.” Q. “You don’t have a complaint against her at this point?” A. “No, Your Honor.” Q. “There’s nothing pending?” A. “No.”).

This misrepresents the record. Plaintiff repeatedly names Ms. Arevalo as a defendant in her Complaint. *See, e.g.*, Compl. ¶¶ 1, 4, 15, Dkt. No. 1. On January 10, 2018, Plaintiff served Ms. Arevalo with a copy of the summons and Complaint. Proof of Service, Dkt. No. 13; *see* Prop. Summons, Dkt. No. 9; Pl.’s Status Report, Dkt. No. 18 (“Plaintiff has filed proof of service for service of summons on all three defendants in this case, P&Z Foods, Inc., Pascual Zavala and Miriam Arevalo. None of the defendants have appeared.”); Joint CMC Stmt. at 2, Dkt. No. 25 (noting “Defendants P&Z Foods and Miriam Arevalo have not appeared in this action”).

Plaintiff initiated this action in October 2017. *See* Compl. The Court twice continued and once vacated the CMC because Defendants had not appeared and Plaintiff did not indicate how she intended to proceed against them. Order Continuing CMC, Dkt. No. 15; Order Vacating

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CMC, Dkt. No. 17; Order Setting CMC, Dkt. No. 19. Ms. Arevalo still has not responded to the Complaint, and Plaintiff still has not dismissed or sought default against her. *See* Docket. It has been seven months since Plaintiff filed her Complaint and more than four months since Plaintiff served Ms. Arevalo. Plaintiff has had more than sufficient time to determine her litigation strategy; as the Court previously noted, she is represented by four attorneys. Order Setting CMC at 1 n.1.

Based on Plaintiff's representations at the CMC and Plaintiff's inaction thus far, Plaintiff shall show cause why the Court should not dismiss Ms. Arevalo from this action. Plaintiff shall file a declaration no later than May 30, 2018.

IT IS SO ORDERED.

Dated: May 25, 2018



MARIA-ELENA JAMES
United States Magistrate Judge