

1
2
3
4
5
6
7
8
9

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

JANE R. EVANS,

No. C 08-01066 SBA

Plaintiff,

ORDER

v.

[Docket No. 27]

SANDPLAY THERAPISTS OF
AMERICA,

Defendant.

10 Before the Court is defendant's Motion to Dismiss or, Alternatively, for Summary Judgment
11 (the "Motion") [Docket No. 27]. For the following reasons, the Court GRANTS the Motion as
12 unopposed. On February 22, 2008, plaintiff Jane R. Evans filed in propria persona and *in forma*
13 *pauperis*, a 150-page complaint which is not a model of clarity. See Docket No. 1. The first page of
14 the Complaint is from a Northern District of California form Employment Discrimination
15 Complaint, which indicates Evans is proceeding under Title VII of the Civil Rights Act of 1964, 42
16 U.S.C. § 2000e *et seq.* See Docket No. 1 at 1. Nonetheless, a review of the Complaint's first eight
17 pages shows allegations of discriminatory, retaliatory, and harassing conduct on the basis of Evan's
18 ethnicity, national origin, and/or perceived mental or emotional condition, by what could be agents
19 of her employer, a fee-based educational institution she attended, or her therapist. See Docket No. 1
20 at 1-8.

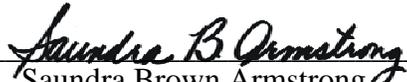
21 Defendant's Motion is predicated on two grounds: that it never employed Evans, and that it
22 lacks sufficient employees to qualify as an "employer" as defined in Title VII. See Docket No. 23
23 at 2:19-24. Neither of these allegations can be verified on the face of Evans' Complaint. The
24 Motion was set for a hearing on September 9, 2008. See Docket No. 23. Per Local Civil Rule 7-3,
25 Evans' opposition was due on or before August 19, 2008.

26 By September 5, 2008, Evans had not responded to the Motion. Because plaintiff was
27 proceeding without the benefit of counsel, and because the Court had questions regarding the
28 Motion, the Court vacated the hearing on it, and set an OSC hearing regarding dismissal, for

1 October 16, 2008. *See* Docket No. 34. The Court ordered Evans to (1) file a statement ten days or
2 more prior to the hearing, as to why the Court should not dismiss this matter for her failure to
3 prosecute it, *id.* ¶ 2, and (2) to appear at the hearing, *id.* ¶ 1. Evans was warned that her failure to
4 perform either action would subject her to dismissal. *Id.* ¶ 3. Evans neither filed her statement nor
5 appeared at her hearing. Accordingly, the Court GRANTS the motion as unopposed, and
6 DISMISSES the Complaint without prejudice for Evans' failure to prosecute it. All matters
7 calendared in this action are VACATED. The Clerk shall CLOSE the file and terminate any
8 pending matters.

9
10 IT IS SO ORDERED.

11 October 17, 2008

12 
13 Saundra Brown Armstrong
14 United States District Judge
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4
5
6 EVANS et al,

Case Number: CV08-01066 SBA

7 Plaintiff,

CERTIFICATE OF SERVICE

8 v.

9 SANDPLAY THERAPISTS OF AMERICA et al,

10 Defendant.
11 _____/

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
Northern District of California.

13 That on October 20, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
15 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
in the Clerk's office.

16
17
18 Jane Rocio Evans
19 PO Box 424886
San Francisco, CA 94142

20 Dated: October 20, 2008

21 Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk

22

23

24

25

26

27

28