

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

CLAUDIA KENNEDY,

Plaintiff,

v.

BANK OF AMERICA, NATIONAL
ASSOCIATION; BANK OF AMERICA
CORPORATION; STEVE OWEN; and DOES 1
through 25, inclusive,

Defendants.

No. C 10-0868 CW

ORDER GRANTING
DEFENDANTS' MOTION
TO DISMISS

Plaintiff Claudia Kennedy charges Defendants with discrimination in violation of 42 U.S.C. § 1981. Plaintiff alleges that Defendants discriminated against her based on her "medical condition" and age. A § 1981 claim prohibits discrimination on the basis of race and national origin only. Saint Francis College v. Al-Kharzraji, 481 U.S. 604, 613 (1987). The statute "does not protect against discrimination on the basis of gender, religion, disability [or] age" Sagan v. Tenorio, 384 F.3d 731, 738 (9th Cir. 2004) (internal citations omitted). Defendants have filed a motion to dismiss the claims asserted against them and Plaintiff concedes that she does not have a valid § 1981 claim. Accordingly, the Court grants Defendants' motion and grants

1 Plaintiff leave to amend her complaint to allege a cognizable cause
2 of action on some basis other than § 1981.

3 Plaintiff must file an amended complaint within seven days
4 from the date of this order. If Defendants move to dismiss, they
5 must do so within fourteen days of the filing of the amended
6 complaint. Plaintiff shall file an opposition fourteen days
7 thereafter and Defendants shall file a reply seven days later. The
8 matter will be taken under submission and decided on the papers.
9 The motion hearing and case management conference scheduled for
10 July 15, 2010 is vacated and rescheduled to Tuesday, September 7,
11 2010 at 2:00 p.m. If Plaintiff fails to file an opposition, the
12 Court will dismiss her complaint for failure to prosecute.

13 IT IS SO ORDERED.

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15 Dated: 07/12/10



16 CLAUDIA WILKEN
17 United States District Judge
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