

United States District Court
Northern District of California

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6 OLUCHI NNACHI,

7 Plaintiff,

8 v.

9 CITY AND COUNTY OF SAN
10 FRANCISCO,

11 Defendant.

Case No.: 4:13-cv-05582-KAW

ORDER REQUIRING PLAINTIFF TO FILE
OPPOSITION TO MOTION TO DISMISS
BY NO LATER THAN JULY 23, 2014

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14 Plaintiff Oluchi Nnachi proceeds *pro se* in the above-captioned case. On June 13, 2014
15 the City and County of San Francisco ("Defendant") filed a motion to dismiss. The motion is set
16 for hearing on August 7, 2014.

17 Pursuant to Civil Local Rule 7-3, Plaintiff's opposition was due on June 30, 2014. On
18 July 2, 2014, Defendant filed a notice indicating that as of July 2, 2014, Plaintiff had not filed an
19 opposition to the pending motion to dismiss. (Def.'s Notice, Dkt. No. 33.) On that basis,
20 Defendant requested that the motion be granted as unopposed. (*Id.*)

21 On July 7, 2014, Plaintiff filed a document captioned "Opposition to Defendant,s [*sic*]
22 City & County of San Francisco Motion to Dismiss Plaintiff,s [*sic*] Second Amended Complaint."
23 (Pl.'s Opp'n, Dkt. No. 34.) In the filing, Plaintiff indicates that he did not receive a copy of the
24 motion to dismiss and instead first learned about the motion when Defendant filed its July 2, 2014
25 notice. (*Id.* at 2.) Plaintiff states that "[i]t is possible the defendant mailed the motion to [his]
26 address, but something went wrong in the delivery system that [he] cannot control." (*Id.*)

27 Plaintiff also indicates that in the parties' joint case management conference statement, he
28 "made it clear that [he] will oppose any future memorandum from the defendant to the court to

1 dismiss this case" and that "[b]ecause [they] have already in good faith exchanged what each
2 party intends to do in the joint case management conference of 05/13/14, the motion to dismiss
3 should be denied and plaintiff be given time by the court to oppose the motion in another forum if
4 allowed by the court." (*Id.*) He adds that he does "not think the defendant will suffer any
5 prejudive [*sic*] by re-issuing the motion again" (*Id.*)

6 The certificate of service Defendant filed in connection with its motion to dismiss shows
7 that the motion papers were mailed to Plaintiff's address of record. (Certificate of Service, Dkt.
8 No. 30.) To the extent that Plaintiff claims that he did not receive a copy of the motion papers
9 due to an issue outside of his control, Plaintiff is on notice that he is responsible for taking
10 whatever steps are necessary to ensure that he has a reliable address where he can receive filings
11 in this case. To avoid any future issues with his mail service, Plaintiff may also request
12 permission to file and receive court papers electronically as set forth in Civil Local Rule 5-1(b) (a
13 pro se party may file and receive court papers electronically after filing a motion, and being
14 granted, permission to do so). If Plaintiff still has not received a copy of Defendants' moving
15 papers, he may review a copy at the Clerk's Office for a fee, as permitted by Civil Local Rule 5-
16 1(c)(5)(B) ("Any person may review at the Clerk's Office all filings, electronic or paper, that have
17 not been sealed by the Court.").

18 Notwithstanding any joint case management conference statement that has been filed in
19 this case, if Plaintiff wishes to oppose the pending motion to dismiss, Plaintiff shall file an
20 opposition to the motion by no later than July 23, 2014. If Plaintiff does not file an opposition,
21 the Court may grant the motion as unopposed. *See* Judge Westmore's General Standing Order ¶
22 21 ("The failure of the opposing party to file a memorandum of points and authorities in
23 opposition to any motion shall constitute consent to the granting of the motion"). The August 7,
24 2014 hearing on the motion is hereby VACATED.

25 If Plaintiff requires assistance with preparing his opposition to the motion to dismiss, he
26 may wish to consult a manual the court has adopted to assist *pro se* litigants in presenting their
27 case. This manual, and other free information, is available online at: <http://cand.uscourts.gov/>
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proselitigants. Plaintiff may also wish to contact the Federal Pro Bono Project's Help Desk—a free service for *pro se* litigants—by calling (415) 782-8982.

IT IS SO ORDERED.

Dated: July 9, 2014


KANDIS A. WESTMORE
United States Magistrate Judge