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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIATRACEY N. THOMPSON,
Plaintiff,
v.
STEVE MASTERS,
Defendant.

Case No. 16-cv-04704-KAW

**ORDER DISMISSING CASE WITHOUT
PREJUDICE****I. INTRODUCTION**

On August 15, 2016, Plaintiff Tracey N. Thompson filed the instant suit against Defendant Steve Masters, alleging that she owns the copyright in "Surround Sound" and that Defendant owes her royalties on the logo. (Compl. at 1, Docket No. 1.) Plaintiff also filed an application to proceed in forma pauperis, which the Court granted on August 19, 2017. (Dkt. Nos. 2, 5.) On February 22, 2017, pursuant to 28 U.S.C. § 1915(e)(2), the Court dismissed Plaintiff's complaint with leave to amend, finding that: (1) Plaintiff failed to identify any cause of action, and (2) Plaintiff failed to adequately plead a viable claim. (Dkt. No. 16 at 2-3.) The Court gave Plaintiff 30 days to file an amended complaint, warning that "[f]ailure to file a first amended complaint within 30 days of this order may result in dismissal of this action for failure to prosecute." (Dkt. No. 16 at 3.)

II. DISCUSSION

Federal Rule of Civil Procedure 41(b) permits the involuntary dismissal of an action or claim for a plaintiff's failure to prosecute. *See Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962) ("authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an 'inherent power'"). Unless otherwise stated, a dismissal under Rule 41(b) "operates as an adjudication on the merits." Fed. R. Civ. P. 41(b).

1 In the instant case, Plaintiff was ordered to submit an amended complaint within 30 days
2 of the order of dismissal. (Dkt. No. 16 at 3.) Plaintiff's amended complaint was therefore due on
3 March 24, 2017. Plaintiff did not file an amended complaint. Accordingly, on April 6, 2017, the
4 Court issued an order to show cause, requiring that Plaintiff, on or before April 28, 2017, file an
5 amended complaint that corrected the deficiencies identified by the Court's February 22, 2017
6 order, and respond to the order to show cause by explaining why she did not file a timely amended
7 complaint. (Dkt. No. 17.)

8 On April 13, 2017, the Court received a letter dated April 10, 2017, which stated that
9 Plaintiff was severely disabled. (Dkt. No. 19.) Plaintiff requested a telephone conference or
10 hearing at her apartment. Plaintiff also stated that the request was her amended complaint, even
11 though the request did not plead any facts or identify any causes of action related to her case.

12 The Court finds that Plaintiff has failed to comply with the Court's order to file an
13 amended complaint because the April 10, 2017 request for a telephonic conference is not a
14 complaint. Even if the Court was to consider the request a complaint, the request fails to correct
15 any of the deficiencies identified by the Court's February 22, 2017 order. Specifically, the request
16 fails to identify any causes of action, contrary to the requirements of Federal Rule of Civil
17 Procedure 10. (*See* Dkt. No. 16 at 2.) The request also fails to state any facts in support of
18 Plaintiff's claim. Assuming Plaintiff is still claiming royalties from the "Surround Sound" logo,
19 Plaintiff still does not explain why she is owed any royalties on the copyright after Mr. Dholby
20 bought the copyright, why she brings suit against Defendant Masters, why Defendant Masters
21 owns her royalties when Mr. Dholby has the copyright, what court help is required for Defendant
22 Masters, what legal basis there is for seeking such help, or why Plaintiff is entitled to request help
23 on Defendant Master's behalf. (*See id.* at 2-3.)

24 Because Plaintiff has failed to file an amended complaint, as required by the Court's
25 February 22, 2017 order and April 6, 2017 order to show cause, the Court DISMISSES Plaintiff's
26 case without prejudice, for failure to prosecute.

27 **III. CONCLUSION**

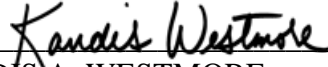
28 For the reasons stated above, the Court DISMISSES Plaintiff's case without prejudice, for

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failure to prosecute.

IT IS SO ORDERED.

Dated: June 7, 2017



KANDIS A. WESTMORE
United States Magistrate Judge