

1

E-FILED 5/14/2009

2

3

4

5

6

7

NOT FOR CITATION

8

IN THE UNITED STATES DISTRICT COURT

9

FOR THE NORTHERN DISTRICT OF CALIFORNIA

10

SAN JOSE DIVISION

11

CHRISTINA SANCHEZ,

No. C07-04174 HRL

12

Plaintiff,

13

v.

**ORDER (1) GRANTING PLAINTIFF'S
MOTION FOR AN EXTENSION OF
TIME; AND (2) DENYING MONTEREY
COUNTY'S MOTION TO DISMISS**

14

SUZETTE Z. TORRES, FIRST AMERICAN
TITLE, JANE E. BEDNAR, NAM NGUYEN,
HOMECOMINGS FINANCIAL NETWORK,
CITIMORTGAGE, INC., JEFFERY H.

15

16

LOWENTHAL, BRYAN M. KRAFT,
ANGELO PAUL RUSSO, CITY OF SALINAS,
ADAM M. GREELY, ANDY PHAM,
MONTEREY COUNTY, EXECUTIVE
TRUSTEE SERVICES, LOANCITY.COM,
JOHN H. MITCHELL,

[Re: Docket No. 63, 72]

19

Defendants.

20

21

22

On December 18, 2008, this court granted the motion to dismiss the Second Amended

23

Complaint ("SAC") filed by the sole remaining defendant, the County of Monterey ("County"),

24

with leave to amend. The order directed plaintiff to file her amended complaint as to the

25

County by January 19, 2009, and further stated that "[i]f Sanchez has not filed it by that date, or

26

secured an extension of time based on good cause, the court will dismiss as to Monterey without

27

further notice." (Docket #52, December 18, 2008 Order at 11:24-25). When her amended

28

pleading was due, Sanchez did not file an amended complaint. Instead, she filed a request

1 seeking an unspecified additional period of time to do so. She asserted that she could not file
2 her amended pleading by the court-ordered deadline because of an alleged “medical condition”
3 and because she did not “obtain legal advice in time.” (See Docket #55).

4 This court found no good cause for the requested extension, but nonetheless exercised
5 its discretion to permit Sanchez some additional time to file her amended pleading as to the
6 County. In its January 29, 2009 order granting a brief extension of time, this court stated that
7 no further requests for an extension of this deadline would be entertained unless plaintiff
8 submitted a declaration under penalty of perjury from a physician licensed to practice in
9 California that her “medical condition” has, in fact, prevented her continuously since January
10 19, 2009 from drafting and filing an amended pleading and stating the reason for her inability as
11 well as the date when she will be able. (Docket #59, January 29, 2009 Order).

12 Sanchez once again requests an extension of time to file an amended complaint as to the
13 County. The County opposes that motion. It also brings a separate motion to dismiss,
14 requesting that this court now, in effect, modify its December 18, 2008 order and dismiss the
15 SAC as to the County without leave to amend. This matter is suitable for determination without
16 oral argument, and the noticed motion hearing is vacated. Civ. L.R. 7-1(b). Upon consideration
17 of the moving and responding papers,¹ this court grants plaintiff’s motion for an extension of
18 time and denies the County’s motion to dismiss.

19 Sanchez says that she did not receive this court’s January 29, 2009 Order. She also
20 claims that she could not have complied with the extended court-ordered deadline for an
21 amended pleading because she recently underwent “leg surgery.”

22 With respect to plaintiff’s proffered medical excuse, she has submitted a one-page
23 document titled “Patient Visit Information” indicating she (under the name “Van K Lai”) received
24 treatment for a skin abscess on March 1, 2009. As per this court’s January 29, 2009
25 order, this does not establish good cause for the requested extension.

26
27
28

¹ The County’s motion to dismiss was served on plaintiff. Plaintiff has failed to
file any opposition papers, and the time for filing an opposition has passed. Civ. L.R. 7-3(a).

1 As for plaintiff's alleged change of address – just prior to the filing of the instant
2 motion, Sanchez appeared before this court during its regular civil law and motion calendar in
3 the mistaken belief that a motion hearing had been set in this case. At that time, plaintiff said
4 that she did not receive this court's January 29, 2009 Order at the 834 Tumbleweed Drive,
5 Salinas, CA 93905 address of record and claimed that she had recently moved to a different
6 address. The court's records indicate that, on February 6, 2009, orders issued on January 29,
7 2009 were returned by the post office as undeliverable. (Docket #60). Sanchez was advised to
8 review the court's orders in the Clerk's Office. She was also directed to promptly file a notice
9 of change of address. To date, no such notice has been filed. Curiously, instead of filing a
10 notice of change of address, plaintiff proceeded to file the instant motion which continues to
11 identify the address at 834 Tumbleweed Drive, Salinas, CA 93905 as her contact information.

12 The County argues that this court should preclude Sanchez from filing an amended
13 pleading. Here, it points out that it has not received any information from the U.S. Post Office
14 that the County's mail sent to plaintiff at 834 Tumbleweed Drive, Salinas, CA 93905 was
15 undeliverable. It represents that Sanchez has filed for bankruptcy numerous times, under
16 different names,² and that all of those matters have been dismissed – with the exception of a
17 twelfth bankruptcy matter filed on February 6, 2009. It believes that Sanchez is a vexatious
18 litigant, who routinely initiates litigation and other legal proceedings in bad faith as a means of
19 preventing the County from complying with the law and from collecting delinquent property
20 taxes.

21 As detailed in prior orders of this court, plaintiff has, throughout this litigation,
22 consistently failed to (a) timely file papers with the court, (b) meet court-ordered deadlines, and
23 (c) make scheduled court appearances. The fact that Sanchez is representing herself does not
24 absolve her of the responsibility to diligently prosecute her case and to adhere to rules that all
25 litigants are required to follow. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987) (finding
26 that pro per litigants must follow the same procedural rules as represented parties). Moreover,

27
28 ² As noted in this court's December 18, 2008 dismissal order, plaintiff goes by
at least three different names – "Christina Sanchez," "Sylvia Nicole" and "Van Kim Lai" –
and seems to use all three names interchangeably.

1 plaintiff has made blatant misrepresentations in her court filings. (See, e.g., Docket #13,
2 November 27, 2007 Order at 4; Docket #52, December 18, 2008 Order at 9 n.5).

3 There might well be cause for suspicion as to the circumstances which may have caused
4 this court's January 29, 2009 orders to be returned as undeliverable. Nevertheless, because the
5 court's records reflect that, for whatever reason, its January 29, 2009 orders were, in fact, not
6 delivered to Sanchez, she will be given a very brief extension of time to file an amended
7 complaint as to the County, the sole remaining defendant. Sanchez is further advised as
8 follows:

9 This will be the final extension given. No further requests for an extension will be
10 entertained. If plaintiff fails to file an amended pleading by the new deadline, it will be
11 considered grounds for immediate dismissal.

12 Plaintiff has an obligation to keep the court and opposing parties of her current contact
13 information. It has been well over 60 days since this court's January 2009 orders were returned
14 as undeliverable, and plaintiff has not filed a change of address – despite her claim that she has
15 moved to a new address. If mail directed to plaintiff at her address of record at 834
16 Tumbleweed Drive, Salinas, CA 93905 is again returned to the court as undeliverable, it will be
17 considered grounds for immediate dismissal pursuant to Civil Local Rule 3-11.

18 Based on the foregoing, IT IS ORDERED THAT:

- 19 1. Plaintiff's motion for an extension of time to file an amended complaint as to the
20 County is granted. Plaintiff's amended complaint shall be filed by **May 25, 2009**. Failure to
21 amend by that date will be grounds for immediate dismissal.
- 22 2. The County's motion to dismiss the SAC without leave to amend is denied.

23 SO ORDERED.

24 Dated: May 14, 2009

25 
26 _____
27 HOWARD J. LLOYD
28 UNITED STATES MAGISTRATE JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5:07-cv-4174 Notice electronically mailed to:

Citimortgage, Inc. jlowenthal@steyerlaw.com
Edward Egan Smith esmith@steyerlaw.com, aroque@steyerlaw.com
Georgina Berenice Mendoza georgina@ci.salinas.ca.us, julian@ci.salinas.ca.us,
susanm@ci.salinas.ca.us
Jessica Carolyn Grannis jgrannis@steyerlaw.com
Susan J. Matcham susanm@ci.salinas.ca.us, georgina@ci.salinas.ca.us, julian@ci.salinas.ca.us
William K. Rentz rentzb@co.monterey.ca.us, zazueta@co.monterey.ca.us

Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the court's CM/ECF program.

5:07-cv-4174 Notice mailed to:

Christina Sanchez
834 Tumbleweed Drive
Salinas, CA 93905