

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JODY LYNN VON HAAR,)	Case No.: 10-CV-02995-LHK
)	
Plaintiff,)	ORDER TO SHOW CAUSE WHY CASE
v.)	SHOULD NOT BE DISMISSED FOR
)	FAILURE TO PROSECUTE
CITY OF MOUNTAIN VIEW, TONY)	
VIERYA, aka JOSE VIEYRA, TY ZEMLOK,)	
FERNANDO MALDONADO, Does 1-100,)	
)	
Defendants.)	

This is the second order to show cause why this case should not be dismissed for failure to prosecute. On May 4, 2011, the Court held a case management conference at which both Plaintiff and Plaintiff’s counsel failed to appear. The Court subsequently issued a Case Management Order that set forth deadlines for the parties to meet and confer and to complete certain discovery obligations. See Minute Entry and Case Management Order, May 4, 2011, ECF No. 30. In its Order, the Court advised Plaintiff that if she failed to comply with the court-ordered deadlines, the Court could issue an order to show cause why the case should not be dismissed for failure to prosecute or why Plaintiff’s counsel and/or Plaintiff should not be sanctioned for failure to comply with a Court order. On May 26, 2011, Defendants filed a notice advising the Court that Plaintiff, by and through her counsel, had failed to comply with the Court’s Case Management Order regarding several discovery obligations. See Defendants’ Report of Plaintiff’s Non-Compliance With Court Order, ECF No. 32. Plaintiff filed no response to Defendants’ notice.

1 On June 6, 2011, the Court ordered Plaintiff to show cause why the case should not be
2 dismissed for failure to prosecute. In the order to show cause, Plaintiff was accused of failing to
3 comply with the following discovery deadlines imposed by the Court in its May 4 Case

4 Management Order:

- 5 1. Plaintiff's counsel failed to provide Plaintiff's dates of availability for deposition by May
6 11, 2011, as ordered by the Court;
- 7 2. Plaintiff did not respond to Defendants' request to meet and confer by May 13, 2011, as
8 ordered by the Court;
- 9 3. Plaintiff failed to produce initial disclosures by May 18, 2011, as ordered by the Court;
4. Plaintiff failed to exchange documents designated in the initial disclosures by May 25,
2011, as ordered by the Court;
5. Plaintiff failed to respond to Defendants' draft protective order by May 18, 2011, as ordered
by the Court.

10 Plaintiff's counsel, William B. Look, filed a response in which he explained that counsel
11 and Plaintiff lacked funds to prosecute the case, and that Plaintiff had been seeking new counsel.
12 In response, Defendants filed a statement in which they informed the Court that Plaintiff's counsel
13 was suspended from the practice of law effective April 4, 2011 for a period of 120 days. In reply,
14 Attorney Look acknowledged the suspension, but claimed that it had not yet taken effect. Based on
15 the representations made by Attorney Look at the August 31, 2011 case management conference,
16 and the public records available on the website of the State Bar of California, it appears that the
17 suspension is not yet in effect, although the suspension is to begin on September 10, 2011.

18 Additionally, Attorney Look was ordered to file a motion to withdraw by July 15, 2011,
19 which he has failed to do. *See* Order Regarding Status of Plaintiff's Counsel, July 2, 2011, ECF
20 No. 38. For these, and other reasons, Attorney Look is the subject of an order to show cause why
21 sanctions should not be imposed that has been filed concurrently with this Order.

22 In light of the issues that have arisen with Plaintiff's counsel, and in an abundance of
23 caution, the Court determines that it is prudent to issue a second order to show cause why this case
24 should not be dismissed for failure to prosecute. The three orders to show cause referenced in this
25 document are to be served, electronically and by mail, on Judy Von Haar: this order to show cause
26 why the case should not be dismissed for failure to prosecute; the June 6 order to show cause why
27 the case should not be dismissed for failure to prosecute; as well as the order to show cause why
28 sanctions should not be imposed on Attorney Look, filed concurrently with this Order. Moreover,

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Attorney Look was ordered to contact Jody Von Haar and explain to her his status with the State Bar, and that the Court has issued an order to show cause as to why this case should not be dismissed for failure to prosecute.

Plaintiff Jody Von Haar, either appearing *pro se* or through newly obtained counsel, shall file a written response by September 15, 2011. A hearing on the matter is set for September 22, 2011 at 1:30, in Courtroom 8, 4th Floor.

IT IS SO ORDERED.

Dated: September 1, 2011



LUCY H. KOH
United States District Judge