

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

HAZEL MAE TURNER,)	Case No.: 12-CV-06285-LHK
)	
Plaintiff,)	ORDER DISMISSING CASE WITHOUT
v.)	PREJUDICE
)	
NATIONAL FEDERATION OF FEDERAL)	
EMPLOYEES, and DOES 1 through 25,)	
)	
Defendants.)	
)	

Plaintiff Hazel Mae Turner (“Plaintiff”) filed her complaint on September 13, 2012 in the Superior Court for the County of San Benito. Defendant National Federation of Federal Employees (“Defendant”) removed this action to the instant court on December 11, 2012. ECF No. 1. On December 19, 2012, Defendant filed a Motion to Dismiss. ECF No. 8.¹ Pursuant to Civil Local Rule 7-3(a), Plaintiff’s Opposition to the Motion to Dismiss was due on January 2, 2013. As of April 19, 2013, Plaintiff had not filed an Opposition or Statement of Non-Opposition to Defendant’s Motion to Dismiss. Defendant’s Motion to Dismiss was scheduled to be heard on April 25, 2013.

In light of Plaintiff’s failure to respond to the Motion to Dismiss, on April 19, 2013, the Court ordered Plaintiff to show cause why this case should not be dismissed for failure to

¹ Defendant filed an Amended Notice of Motion on December 20, 2012. ECF No. 9. The Amended Notice of Motion appears to add the time of the hearing to the first paragraph of the original Notice of Motion.

1 prosecute. ECF No. 13 (“OSC”). In the OSC, the Court advised Plaintiff that Plaintiff was not
2 authorized to file an untimely Opposition to Defendant’s Motion to Dismiss. The Court ordered
3 that Plaintiff file a response by May 3, 2013. The Court set a hearing on the OSC for May 8, 2013.
4 The Court also advised Plaintiff that if Plaintiff failed to respond to the OSC and failed to appear at
5 the May 8, 2013 hearing, Plaintiff’s case would be dismissed without prejudice for failure to
6 prosecute.

7 On May 6, 2013, Plaintiff emailed defense counsel to request that the Court continue the
8 OSC hearing 3 weeks because Plaintiff needed to obtain permission in order to leave Kern County
9 and attend the hearing. On May 6, 2013, Defense counsel informed the Court of this request. Also
10 on May 6, 2013, Plaintiff filed a notice requesting a continuance of the OSC hearing. *See* ECF No.
11 16. The Court thus continued the OSC hearing from May 8, 2013 to June 19, 2013. *See* ECF No.
12 15. The Court also extended Plaintiff’s deadline to file a response from May 3, 2013 to June 12,
13 2013. *See id.*

14 Plaintiff nevertheless failed to respond to the OSC. Plaintiff also did not appear at the June
15 19, 2013 OSC hearing. In light of Plaintiff’s failure to respond to the OSC and failure to appear at
16 the OSC hearing, the Court hereby DISMISSES Plaintiff’s case without prejudice for failure to
17 prosecute. The Clerk shall close the file.²

18 **IT IS SO ORDERED.**

19 Dated: June 21, 2013

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21 LUCY H. KOH
22 United States District Judge
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28 ² Defendant’s Motion to Dismiss is DENIED AS MOOT.