

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MARIA W. LEE, et al.,  
Plaintiffs,

v.

RETAIL STORE EMPLOYEE BUILDING  
CORPORATION, et al.,  
Defendants.

Case No. 15-CV-04768-LHK

**ORDER GRANTING MOTIONS TO  
DISMISS AND ORDER TO SHOW  
CAUSE AS TO PLAINTIFF LIN LEE**

Re: Dkt. Nos. 60, 69

Plaintiffs Maria Lee, Wen Lee, and Lin Lee bring this action against Retail Store Employee Building Corporation (“Retail Store”); Casa del Pueblo Apartment (“CDP”); and Barcelon Associates Management Corp (“Barcelon”). Before the Court are two motions to dismiss the First Amended Complaint, one filed by Barcelon Associates Management Corp. and another filed by Retail Store Employee Building Corporation and Casa del Pueblo Apartment. ECF No. 69 (“Barcelon Mot.”); ECF No. 60 (“Retail Store Mot.”); ECF No. 52 (“FAC”).

The instant Order pertains only to Plaintiff Lin Lee (“Lin”) because Lin, unlike Plaintiffs Maria Lee (“Maria”) and Wen Lee (“Wen”), did not file a response to either Barcelon or Retail

1 Store and CDP's motions to dismiss.<sup>1</sup> This is, moreover, not the first time that Lin has failed to  
2 file a response or opposition.

3 Notably, the FAC also named Preservation Partners Management Group, Inc. ("PPMG")  
4 as a Defendant. On May 9, 2016, PPMG moved for summary judgment. On June 13, 2016, Maria  
5 and Wen stipulated to dismiss PPMG with prejudice. ECF No. 71. Lin, however, did not file a  
6 response or opposition to PPMG's motion for summary judgment. U.S. Magistrate Judge Howard  
7 Lloyd, to whom this action was originally assigned, found PPMG's motion for summary judgment  
8 well-founded in fact and in law. Consequently, Judge Lloyd issued a Report and  
9 Recommendation which recommended that PPMG's motion for summary judgment be granted as  
10 to Lin. ECF No. 79. The instant action was reassigned to the undersigned judge on June 21,  
11 2016. ECF No. 80.

12 Lin did not object to Judge Lloyd's Report and Recommendation. Accordingly, on July 6,  
13 2016, the Court adopted Judge Lloyd's Report and Recommendation in full. ECF No. 83. Lin did  
14 not appeal the Court's July 6, 2016 Order.

15 Finally, on July 28, 2016, the parties filed their joint case management statement in  
16 advance of the August 11, 2016 initial case management conference. ECF No. 92. Lin did not  
17 participate in the preparation of this statement. As counsel for Maria and Wen explain, Lin is  
18 "unrepresented in this matter and . . . Maria and Wen['s] . . . counsel ha[ve] not been able to meet  
19 and confer with her." *Id.* at 1. Lin's failure to participate in preparing the joint case management  
20 statement is in violation of Civil Local Rule 16-9. *See* Civil L.R. 16-9(a) (requiring all parties to  
21 meet, confer, and prepare a joint case management statement at least seven days in advance of the  
22 case management conference).

23 To summarize, Lin (1) did not respond to or oppose PPMG's motion for summary  
24 judgment; (2) did not object to Judge Lloyd's Report and Recommendation; (3) did not appeal the  
25 Court's order adopting Judge Lloyd's Report and Recommendation; (4) did not participate in

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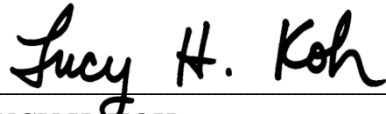
26  
27 <sup>1</sup> The Court will issue a forthcoming Order that addresses the motions to dismiss as to Maria and  
28 Wen.

1 preparing the joint case management statement; and (5) did not oppose the instant motions to  
2 dismiss filed by Barcelon, Retail Store, and CDP.

3 In light of the foregoing, the motions to dismiss filed by Barcelon and by Retail Store and  
4 CDP are GRANTED without prejudice as to Lin. Moreover, the Court ORDERS Lin to show  
5 cause why she should not be dismissed with prejudice from this action for failure to prosecute.  
6 Lin has until August 19, 2016 to file a written response, not to exceed three pages in length, to this  
7 Order to Show Cause. A hearing on this Order to Show Cause is set for August 25, 2016, at 1:30  
8 p.m. If Lin fails to respond to this Order to Show Cause and fails to appear at the August 25, 2016  
9 Order to Show Cause hearing, the Court will dismiss Lin from this action with prejudice for  
10 failure to prosecute.

11 **IT IS SO ORDERED.**

12 Dated: August 5, 2016.

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14 LUCY H. KOH  
15 United States District Judge  
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