

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

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 DISMISSING PLAINTIFF LIN  
LEE FOR FAILURE TO PROSECUTE**

Plaintiffs Maria Lee, Wen Lee, and Lin Lee (“Plaintiffs”) bring this action against Retail Store Employee Building Corporation (“Retail Store”); Casa del Pueblo Apartment (“CDP”); and Barcelon Associates Management Corp (“Barcelon”). The instant Order pertains only to Plaintiff Lin Lee (“Lin”).

Plaintiffs filed the original complaint in this action on October 15, 2015. ECF No. 1. Plaintiffs filed the First Amended Complaint on May 2, 2016. ECF No. 52 (“FAC”). On May 9, 2016, Preservation Partners Management Group, Inc. (“PPMG”), a Defendant that was named in the FAC and that was previously in this case, filed a motion for summary judgment. On June 13, 2016, Maria and Wen stipulated to dismiss PPMG with prejudice. ECF No. 71. Lin, however, did not file a response or opposition to PPMG’s motion for summary judgment. U.S. Magistrate

1 Judge Howard Lloyd, to whom this action was originally assigned, found PPMG’s motion for  
2 summary judgment well-founded in fact and in law. Consequently, Judge Lloyd issued a Report  
3 and Recommendation which recommended that PPMG’s motion for summary judgment be  
4 granted as to Lin. ECF No. 79. The instant action was reassigned to the undersigned judge on  
5 June 21, 2016. ECF No. 80.

6 Lin did not object to Judge Lloyd’s Report and Recommendation. Accordingly, on July 6,  
7 2016, the Court adopted Judge Lloyd’s Report and Recommendation in full. ECF No. 83. Lin did  
8 not appeal the Court’s July 6, 2016 Order.

9 On May 13, 2016, the remaining Defendants—Retail Store, CDP, and Barcelon—moved  
10 to dismiss the FAC. Lin did not file a response or opposition to these motions to dismiss. In  
11 addition, on July 28, 2016, the parties filed a joint case management statement. ECF No. 92. Lin  
12 did not participate in the preparation of this statement. As counsel for Maria and Wen explained,  
13 Lin is “unrepresented in this matter and . . . Maria and Wen[’s] . . . counsel ha[ve] not been able to  
14 meet and confer with her.” *Id.* at 1. Lin’s failure to participate in preparing the joint case  
15 management statement was in violation of Civil Local Rule 16-9. *See* Civil L.R. 16-9(a)  
16 (requiring all parties to meet, confer, and prepare a joint case management statement at least seven  
17 days in advance of the case management conference).

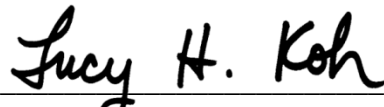
18 In light of the foregoing, the Court granted, on August 5, 2016, Retail Store, CDP, and  
19 Barcelon’s motions to dismiss the FAC as to Lin without prejudice. The Court also ordered Lin to  
20 show cause why she should not be dismissed with prejudice from this action for failure to  
21 prosecute. ECF No. 93. Specifically, the Court ordered Lin to respond to the Order to Show  
22 Cause by August 19, 2016, and to appear at the Order to Show Cause hearing, set for August 25,  
23 2016, at 1:30 p.m. The Court noted that failure to respond to the Order to Show Cause and failure  
24 to appear at the August 25, 2016 hearing would result in Lin being dismissed with prejudice. Lin  
25 has not responded to the Order to Show Cause and did not appear at the August 25, 2016 hearing.

26 Considering that Lin has failed to oppose PPMG’s motion for summary judgment; failed to  
27 oppose Barcelon, CDP, and Retail Store’s motions to dismiss; failed to object to Judge Lloyd’s

1 report and recommendation; failed to comply with Civil Local Rule 16-9; failed to respond to the  
2 Court's Order to Show Cause; and failed to appear at the hearing set for that Order, and having  
3 weighed the factors set forth in *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002), the  
4 Court DISMISSES WITH PREJUDICE Lin's case for failure to prosecute. *See Ghazali v. Moran*,  
5 46 F.3d 52, 53 (9th Cir. 1995) ("Failure to follow a district court's local rules is a proper ground  
6 for dismissal."). The Clerk shall terminate Plaintiff Lin Lee from this case.

7 **IT IS SO ORDERED.**

8 Dated: August 25, 2016.



\_\_\_\_\_  
LUCY H. KOH  
United States District Judge

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28