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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

KATHERINE AVILLA OWEN,  
  
Plaintiff,  
  
vs.  
  
COUNTY OF IMPERIAL,  
  
Defendant.

CASE NO. 08cv1767-L(NLS)  
  
**ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
DISMISSING COMPLAINT  
WITHOUT PREJUDICE**

Plaintiff, an attorney proceeding *pro se*, filed a complaint for battery, negligence and violation of the Americans with Disabilities Act arising out of her arrest and detention. However, she failed to prosecute her case in that she did not conduct any discovery and failed to appear at the mandatory settlement conference. Defendant moved for sanctions, including terminating sanctions. While Plaintiff opposed the dismissal of the case with prejudice, she was not opposed to dismissal without prejudice. In accordance with 28 U.S.C. Section 636, United States Magistrate Judge Nita L. Stormes issued an order granting Defendant \$1,191.52 in monetary sanctions to compensate it for the expenses incurred for appearing at the mandatory settlement conference. In addition, she issued a report and recommendation recommending to dismiss the case without prejudice. Plaintiff has not filed any objections. For the reasons which follow, the Report and Recommendation is **ADOPTED** and the complaint is **DISMISSED WITHOUT PREJUDICE**.

1 A district judge “may accept, reject, or modify the recommended disposition” on a  
2 dispositive matter prepared by a magistrate judge proceeding without the consent of the  
3 parties for all purposes. Fed. R. Civ. P. 72(b); *see* 28 U.S.C. § 636(b)(1). “The court shall  
4 make a *de novo* determination of those portions of the [report and recommendation] to  
5 which objection is made.” 28 U.S.C. § 636(b)(1). When no objections are filed, the *de*  
6 *novo* review is waived. Section 636(b)(1) does not require review by the district court  
7 under a lesser standard. *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). The “statute makes  
8 it clear that the district judge must review the magistrate judge’s findings and  
9 recommendations *de novo if objection is made, but not otherwise.*” *United States v.*  
10 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (emphasis in the original); *see*  
11 *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1225-26 & n.5 (D. Ariz. 2003).

12 In the absence of objections, the Report and Recommendation is **ADOPTED**. The  
13 complaint is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

14 **IT IS SO ORDERED.**

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16 DATED: April 19, 2010

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M. James Lorenz  
United States District Court Judge

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19 COPY TO:

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HON. NITA L. STORMES  
UNITED STATES MAGISTRATE JUDGE

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ALL PARTIES/COUNSEL

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