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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PAULINE ORBETA,

Plaintiff,

v.

HSBC SERVICES, INC.; HOUSEKEY
FINANCIAL CORPORATION; and DOES 1-
10,

Defendants.

Civil No. 09cv1110-BEN (CAB)

**REPORT AND RECOMMENDATION
TO DISMISS THE COMPLAINT
WITHOUT PREJUDICE**

On July 24, 2009, this court issued an order setting an Early Neutral Evaluation Conference (ENE) for September 3, 2009, at 2:00 p.m. [Doc. No. 6.] The docket shows that the ENE order was mailed to plaintiff **PAULINE ORBETA** at 4679 Torrey Circle D109, San Diego, CA 92130.¹ The ENE order required the parties to submit ENE statements by August 27, 2009. The Court never received an ENE statement from the plaintiff. On September 3, 2009, at 2:00 p.m., defendants and defendants' counsel appeared at the ENE. Plaintiff failed to appear.

On September 3, 2009, this Court issued an Order to Show Cause (OSC) requiring plaintiff **PAULINE ORBETA** to appear at a hearing on September 23, 2009 at 9:30 a.m. in Courtroom E of the above-entitled court, to show cause as to why sanctions should not be imposed

¹ Plaintiff has not provided the court with a phone number or email address, in violation of Local Rule 5.1(j)(1). Thus, this Court was unable to contact plaintiff except via U.S. mail to the only known address on the docket.

1 for her failure to attend the court-ordered ENE on September 3, 2009. [Doc. No. 8.]² The OSC order
2 also required plaintiff **PAULINE ORBETA** to file a declaration on or before September 17, 2009,
3 informing the Court why she did not attend the ENE on September 3, 2009, and why sanctions should
4 not be imposed for her failure to appear. Plaintiff **PAULINE ORBETA** failed to file a declaration
5 and failed to appear at the OSC on September 23, 2009.

6 **THEREFORE**, this Court **RECOMMENDS** to the District Court that the complaint be
7 **DISMISSED WITHOUT PREJUDICE** for plaintiff's failure to prosecute the action pursuant to
8 Fed.R.Civ.Pro. Rule 41(b).

9 On or before **October 14, 2009**, any party may file and serve written objections with the
10 Court and serve a copy on all parties. The document shall be entitled "Objections to Report and
11 Recommendation."

12 Any reply to the objections shall be filed and served no later than **ten days after being**
13 **served with the objections.**

14 **IT IS SO ORDERED.**

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16 DATED: September 23, 2009

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19 _____
20 CATHY ANN BENCIVENGO
21 United States Magistrate Judge
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² The OSC order was again mailed to plaintiff at her only known address. [Doc. No. 8.]