

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

FILED

2009 OCT 30 AM 10: 30

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY WJA DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PAULINE ORBETA,

 Plaintiff pro se,

 vs.

HSBC SERVICES, INC., et al.,

 Defendants.

CASE NO. 09cv1110 BEN (CAB)
**ORDER ADOPTING REPORT AND
RECOMMENDATION**

[Doc. No. 10]


This matter is before the Court upon the Magistrate Judge’s Report and Recommendation. (Doc. No. 10.) Plaintiff failed to appear at the Early Neutral Evaluation Conference (“ENE”) before the Honorable Cathy Ann Bencivengo on September 3, 2009. On that same day, Judge Bencivengo issued an Order to Show Cause (“OSC”) requiring Plaintiff to appear on September 23, 2009, to show cause as to why sanctions should not be imposed for her failure to attend the ENE. The OSC also required Plaintiff to file a declaration on or before September 17, 2009, informing the Court why she did not attend the ENE and why sanctions should not be imposed for her failure to appear. Plaintiff failed to file a declaration and failed to appear at the OSC on September 23, 2009. Judge Bencivengo, therefore, recommends that the complaint be dismissed without prejudice for Plaintiff’s failure to prosecute.

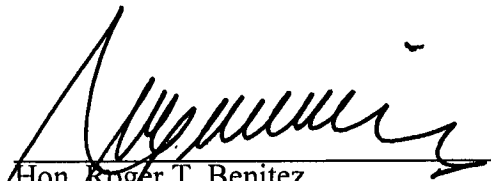
The duties of the district court in connection with the Report and Recommendation of a Magistrate Judge are set forth in Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b). The district judge must “make a de novo determination of those portions of the report . . . to which objection is made” and

1 "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the
2 magistrate judge." 28 U.S.C. § 636(b). "If neither party contests the [magistrate judge's] proposed
3 findings of fact, the court may assume their correctness and decide the motion on the applicable law."
4 *Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law
5 are reviewed de novo, regardless of whether any party filed objections thereto. *See Robbins v. Carey*,
6 481 F.3d 1143, 1146-47 (9th Cir. 2007).

7 The parties did not file objections. Accordingly, the Court **ADOPTS** the Report and
8 Recommendation and **DISMISSES** this case **WITHOUT PREJUDICE** for Plaintiff's failure to
9 prosecute under Fed. R. Civ. P. 41(b).

10 **IT IS SO ORDERED.**

11
12 DATED: 


13 Hon. Roger T. Benitez
14 United States District Judge

15
16
17
18
19
20
21
22
23
24
25
26
27
28