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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MARVA L. SMITH,

Plaintiff,

vs.

SLOAN D. GIBSON, acting Secretary of
Veterans Affairs,

Defendant.

CASE NO. 14cv1018-LAB (DHB)

ORDER OF DISMISSAL

On August 4, 2014, the Court screened and dismissed the complaint, pursuant to 28 U.S.C. § 1915(e)(2)(B). The order of dismissal directed Plaintiff Marva Smith to file an amended complaint by September 1, 2014. That order cautioned Smith that if she failed to amend within the time permitted, the case would be dismissed without leave to amend. On September 5, Smith moved for an extension of time to amend, stating that she had been unable to work on her complaint for less than a week. Although she did not request a particular amount of time, the Court granted an extension until September 29, 2014, cautioning her that if she needed more time, she should file an *ex parte* motion well in advance of the September 29 deadline and that she must show extraordinarily good cause.

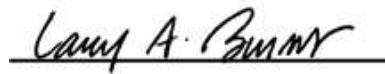
On the afternoon of September 29, Plaintiff called chambers, requesting a hearing date for a motion for extension of time to amend. Because hearing dates are not given for *ex parte* motions, see Standing Order in Civil Cases, ¶ 8 (“All miscellaneous administrative requests and *ex parte* applications are considered on the papers and may not be set for a

1 hearing.”), she was told simply to file her motion. Plaintiff has, however, not filed either an
2 amended complaint, nor a request for extension of time, nor anything else.

3 The action is therefore **DISMISSED WITHOUT PREJUDICE, BUT WITHOUT LEAVE**
4 **TO AMEND**, both for failure to obey the Court’s orders, see Civil Local Rule 83.1(a), and for
5 failure to prosecute. See *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629 (1962) (noting federal
6 trial courts’ power to dismiss actions *sua sponte* for failure to prosecute).

7 **IT IS SO ORDERED.**

8 DATED: October 3, 2014

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10 **HONORABLE LARRY ALAN BURNS**
11 United States District Judge

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