

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

BERTHA ROMERO-DE-MENDOZA,

Plaintiff(s),

v.

WAL-MART STORES, INC.,

Defendant(s).

Case No. 2:16-CV-664 JCM (PAL)

ORDER

Presently before the court are the report and recommendation of Magistrate Judge Leen, (ECF No. 19) regarding plaintiff Bertha Romero-De-Mendoza's failure to comply with an order issued by Magistrate Judge Leen on June 8, 2016, (ECF No. 16) and her failure to comply with an order to show cause issued by Magistrate Judge Leen on July 22, 2016, (ECF No. 18). No timely objections were filed.

This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a de novo determination of those portions of the report and recommendation to which objection is made." 28 U.S.C. § 636(b)(1).

Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made).

1 Nevertheless, this court finds it appropriate to engage in a de novo review to determine
2 whether to adopt the recommendation of the magistrate judge.

3 The report and recommendation of Magistrate Judge Leen properly found that Romero-
4 De-Mendoza did not comply with the June 8, 2016, order, (ECF No. 16) or the July 22, 2016, order
5 to show cause, (ECF No. 18). (ECF No. 19). The first order required plaintiff to retain substitute
6 counsel or file a statement that she would be appearing pro se. (ECF No. 16). The order also set
7 a hearing date for July 19, 2016, to learn the status of the case. (Id.). Plaintiff did not comply with
8 the order and did not appear at the hearing. (ECF No. 17). As a result of plaintiff's failure to
9 appear, Magistrate Judge Leen directed plaintiff to demonstrate in writing no later than August 3,
10 2016, why sanctions should not be imposed for her failure to appear at the hearing on July 19,
11 2016, and her failure to comply with Magistrate Judge Leen's first order, (ECF No. 16). (ECF No.
12 18). Plaintiff did not respond to the order to show cause. (ECF No. 19).

13 This court agrees with Magistrate Judge Leen that plaintiff's failure to comply with the
14 magistrate judge's orders "is an abusive litigation practice that has interfered with the court's
15 ability to hear this case, delayed litigation, disrupted the court's timely management of its docket,
16 wasted judicial resources, and threatened the integrity of the court's orders and the orderly
17 administration of justice." (Id. at 2). Additionally, this court agrees with Magistrate Judge Leen
18 that "[s]anctions less drastic than dismissal are unavailable because [p]laintiff has willfully refused
19 to comply with multiple court [o]rders." (Id.). Therefore, the report and recommendation of
20 Magistrate Judge Leen properly found that plaintiff has failed to prosecute this matter. Thus, the
21 case should be dismissed.

22 Accordingly,

23 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the report and
24 recommendation of Magistrate Judge Leen be, and the same hereby are, ADOPTED in their
25 entirety.

26 IT IS FURTHER ORDERED that the instant case be, and the same hereby is, DISMISSED
27 with prejudice.

28 ...

 ...

1 IT IS FURTHER ORDERED that plaintiff's motion to remand, (ECF No. 4) be, and the
2 same hereby is, DENIED as moot.

3 The clerk shall enter judgment accordingly and close the case.

4 DATED September 30, 2016.

5 
UNITED STATES DISTRICT JUDGE