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3 UNITED STATES DISTRICT COURT
4 CENTRAL DISTRICT OF CALIFORNIA
5 WESTERN DIVISION
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7 CIVIL MINUTES -- GENERAL
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9 **Case No.** ED CV 16-01519-VBF-FFM **Dated:** November 15, 2017

10 **Title:** *Adele E. Spinazzola, Plaintiff-Appellant v. Nancy Berryhill (Commissioner*
11 *of the Social Security Administration), Defendant-Appellee*
12

13 **PRESENT:** HONORABLE VALERIE BAKER FAIRBANK, U.S. DISTRICT JUDGE

14 Stephen Montes Kerr

N/A

15 Courtroom Deputy

Court Reporter

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17 Attorney Present for Petitioner: N/A

Attorney Present for Respondent: n/a

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19 **PROCEEDINGS (in chambers): ORDER** **Ordering Spinazzola to Show Cause by**
20 **Thursday, December 21, 2017 Why This**
21 **Action Should Not Be Dismissed Without**
22 **Prejudice for Lack of Prosecution and**
23 **Failure to Comply with Court Order;**

Permitting the Commissioner to Respond
by Friday, January 18, 2018

24 Proceeding pro se, Adele E. Spinazzola filed the instant appeal from the Commissioner's
25 denial of her application for benefits, along with a request to proceed in forma pauperis ("IFP"), on
26 July 12, 2016. See CM/ECF Documents ("Docs") 1 and 3. By Order issued July 20, 2016 (Doc 5),
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28 CIVIL MINUTES - GENERAL

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1 the Magistrate Judge granted plaintiff IFP status. The Commissioner filed her consent to proceed
2 before the Magistrate Judge for all purposes (Doc 8), but Spinazzola did not. The Commissioner filed
3 an answer (Doc 13) and administrative record (Doc 14) on January 31, 2017.

4 On March 2, 2017, the parties filed a First Stipulation for Extension of Time to File Cross-
5 Motions (Doc 15); pursuant to that stipulation, the Magistrate issued an Order on March 10, 2017
6 (Doc 16) extending the motion deadlines.

7 On May 15, 2017, plaintiff filed an ex parte application for a second extension of the motion
8 deadlines along with a supporting declaration (Docs 17 and 19); by Order issued May 17, 2017 (Doc
9 18), the Magistrate granted plaintiff's application and extended her summary-judgment motion
10 deadline again, to June 15, 2017.

11 Most recently, on June 15, 2017 – the motion deadline itself¹ – plaintiff constructively filed
12 a stipulation, which she signed on her own behalf and (with permission orally granted by
13 Commissioner's counsel) on behalf of the Commissioner, moving her motion deadline sixty days
14 later, to August 15, 2017. The Magistrate Judge did not issue any Order in response to the June 15,
15 2017 stipulation, and by Order issued October 12, 2017 (Doc 21), the case was reassigned from the
16 late District Judge O'Connell to the undersigned district judge.

17 **Fully three months have elapsed since the latest deadline suggested by the June 15, 2017**
18 **stipulation, from August 15, 2017 to November 15, 2017.** The Court has received neither a
19 dispositive motion from plaintiff nor even a belated request for a retroactive further extension of the
20 motion deadline. Accordingly, the Court will direct plaintiff to show cause why the Court should not
21 exercise its inherent authority (and its authority under Fed. R. Civ. P. 41(b) and C.D. Cal. Local Civil
22 Rule ("LCivR") 41-1) to dismiss this case without prejudice for lack of prosecution and for failure
23 to comply with court orders, pursuant to the standard set forth in *Carey v. King*, 856 F.2d 1439 (9th

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25 ¹

26 By waiting until the deadline itself to seek an extension, plaintiff violated the Magistrate's
27 Case Management Order, which stated (Doc 6 at 8) that "[r]equests for extensions of time shall be
electronically filed at least three (3) days before the deadline that is the subject of the request."

1 Cir. 1988), in *In re Eisen, Debtor*, 31 F.3d 1447, 1451 (9th Cir. 1994), and in *Ferdik v. Bonzelet*, 963
2 F.2d at 1260-61.

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ORDER

No later than Thursday, December 21, 2017, plaintiff SHALL SHOW CAUSE why this case should not be dismissed without prejudice for lack of prosecution and failure to comply with court order.

If plaintiff does not file a timely response to this Order, the case will be dismissed without prejudice for lack of prosecution and failure to comply with court orders, without further opportunity for argument or objection.

If plaintiff's response is timely but does not offer justification for her failure to prosecute this action with reasonable diligence and to comply with court orders, the case will be dismissed without prejudice, without further opportunity for argument or objection.

No later than Friday, January 18, 2018, the Commissioner MAY FILE a response.
IT IS SO ORDERED.