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E-Filed 05/07/2010

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KAROL DAVENPORT,

No. C 10-0679 RS

Plaintiff,

ORDER TO SHOW CAUSE

v.

LITTON LOAN SERVICING, LP, et al.,

Defendants.

A hearing on defendants' motion to dismiss was scheduled before the Honorable Richard Seeborg on May 06, 2010 at 1:30 p.m. Although Davenport filed papers in opposition, she and her counsel failed to appear at the motion hearing.

This failure suggests a lack of interest in prosecuting this case. Under Federal Rule of Civil Procedure 41(b), the court may dismiss an action for failure to prosecute. In determining whether a plaintiff's failure to prosecute warrants dismissal of the case, the court must weigh the following factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions. *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986).

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Generally speaking, however, the district court must first warn the plaintiff that the case is in danger of being dismissed for failure to prosecute and give the plaintiff an opportunity to respond. *See, e.g., Palma v. Dent*, No. C 06-6151 PJH, 2007 WL 2023517, at *3 (N.D. Cal. July 12, 2007). Accordingly, Davenport is hereby ordered to show cause in writing why this case should not be dismissed for failure to prosecute under Rule 41(b). Her show cause response should be filed in this Court no later than **June 10, 2010**. Should defendants wish to file a response, they should do so no later than **June 24, 2010**. The parties are directed to appear for a show cause hearing on **July 9, 2010, at 1:30 p.m.** in Courtroom 3, 17th Floor, United States Courthouse, 450 Golden Gate Avenue, San Francisco, California. At the show cause hearing, both parties should also be prepared to discuss the substantive issues raised in defendants' motion to dismiss.

IT IS SO ORDERED.

Dated: 05/07/2010


RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE