

\*E-Filed 6/30/11\*

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

11 KAROL DAVENPORT,

No. C 10-0679 RS

12  
13 Plaintiff,**ORDER TO SHOW CAUSE**

14 v.

15 LITTON LOAN SERVICING, LP, et al.,

16 Defendants.  
17 \_\_\_\_\_/

18 This Court dismissed those claims brought by plaintiff Karol Davenport against defendants  
19 Litton Loan and U.S. Bank on June 03, 2011. That Order afforded Davenport leave to amend those  
20 claims with conditions: "Davenport may amend her SAC, but *only if* she can in good faith allege  
21 facts plausibly suggestive of a viable claim for relief. If she cannot do so, she shall file a Third  
22 Amended Complaint that contains only those claims lodged against the continuing defendants." In  
23 other words, even if Davenport planned to drop those claims brought against Litton and U.S. Bank,  
24 the Order requested a streamlined complaint. The Order then stated that any amendment must be  
25 filed "within twenty days" of the Order's issuance. That deadline has passed

26 Under Federal Rule of Civil Procedure 41(b), the court may dismiss an action for failure to  
27 prosecute. In determining whether a plaintiff's failure to prosecute warrants dismissal of the case,  
28 the court must weigh the following factors: (1) the public's interest in expeditious resolution of

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1 litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4)  
2 the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic  
3 sanctions. *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986).

4 Generally speaking, however, the district court must first warn the plaintiff that the case is in  
5 danger of being dismissed for failure to prosecute and give the plaintiff an opportunity to respond.  
6 *See, e.g., Palma v. Dent*, No. C 06-6151 PJH, 2007 WL 2023517, at \*3 (N.D. Cal. July 12, 2007).  
7 Accordingly, the parties are directed to appear for a show cause hearing on **July 14, 2011, at 1:30**  
8 **p.m.** in Courtroom 3, 17th Floor, United States Courthouse, 450 Golden Gate Avenue, San  
9 Francisco, California. At that hearing, plaintiff must explain why the case should not be dismissed  
10 with prejudice for failure to prosecute. Should Davenport file either the TAC or a notice of  
11 dismissal, the hearing date shall be vacated.

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14 IT IS SO ORDERED.

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16 Dated: 6/30/11



17 RICHARD SEEBORG  
18 UNITED STATES DISTRICT JUDGE