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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LINDSAY KRESLAKE,

Plaintiff,

v.

MIDLAND CREDIT MANAGEMENT INC.,

Defendant.

No. C 13-02080 SI

**ORDER DISMISSING ACTION FOR
FAILURE TO PROSECUTE**

Pro se plaintiff Kreslake filed this suit against defendant Midland Credit Management, Inc., in Alameda County Superior Court for “violation of FDCPA 5809 & violations of Rosenthal Act.” Compl. at 2. On May 14, 2013, after the case was removed to this Court, defendant filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). The hearing was set for June 28, 2013, and plaintiff’s opposition was due on May 30, 2013. Plaintiff did not file an opposition, nor did plaintiff request an extension of time. Accordingly, the Court ordered plaintiff to show cause by no later than June 28, 2013, why this case should not be dismissed for failure to prosecute. Then, on June 26, 2013, the Court’s order was returned as undeliverable to plaintiff’s address. A second order to show cause issued on July 2, 2013, but it was not clear from the record whether plaintiff received it. Plaintiff subsequently spoke with the courtroom deputy by telephone and provided two addresses at which she could be reached. Plaintiff also provided a phone number on which she could be reached for the Case Management Conference scheduled for September 13, 2013. However, plaintiff did not answer the

1 phone number she provided when called for the Case Management Conference, and the call went
2 straight to voicemail. On September 13, 2013, the Court issued plaintiff a Third Order to Show Cause,
3 requiring plaintiff to show cause in writing to be filed no later than September 27, 2013, why this case
4 should not be dismissed for failure to prosecute. *See* Fed. R. Civ. Proc. 41(b). Plaintiff was also ordered
5 to file and serve an opposition to defendant's motion to dismiss no later than September 27, 2013.

6 As of this date, plaintiff has neither responded to the Third Order to Show Cause, nor has she
7 contacted the Court to seek any extension of time. The Court, therefore, DISMISSES this action
8 without prejudice for failure to prosecute. Judgment shall be entered accordingly and the Clerk shall
9 close the file.

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11 **IT IS SO ORDERED.**

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13 Dated: September 30, 2013

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16 SUSAN ILLSTON
17 United States District Judge
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