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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EMILIO DEVERA,  
Plaintiff,  
v.  
WESTERN PROGRESSIVE, LLC, et al.,  
Defendants.

Case No. [3:17-cv-01969-JD](#)

**ORDER OF DISMISSAL FOR FAILURE  
TO PROSECUTE**

Re: Dkt. Nos. 22, 24

On May 30, 2017, the Court stayed the case in its entirety and referred the case to the ADR Unit's mortgage program. Dkt. No. 18. Defendants represented that Devera did not participate in the scheduled ADR phone call. Dkt. No. 21. On August 11, the Court ordered Devera to show cause by September 1. Dkt. No. 22. Devera did not respond. On October 23, the Court issued a second order to show cause, due by November 3. Dkt. No. 24. As of November 14, Devera has not responded.

The Court has considered the five factors set forth in *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987). The Court finds that notwithstanding the public policy favoring the disposition of actions on their merits, the Court's need to manage its docket and the public interest in the expeditious resolution of the litigation require dismissal of this action. In light of the plaintiff's continued failure to respond to the orders to show cause, the Court finds there is no appropriate less drastic sanction. This action is dismissed with prejudice pursuant to Fed. R. Civ. Pro. 41(b) for plaintiff's failure to prosecute.

**IT IS SO ORDERED.**

Dated: November 14, 2017

  
\_\_\_\_\_  
JAMES DONATO  
United States District Judge

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3 EMILIO DEVERA,  
4 Plaintiff,

5 v.

6 WESTERN PROGRESSIVE, LLC, et al.,  
7 Defendants.  
8

Case No. [17-cv-01969-JD](#)

**CERTIFICATE OF SERVICE**

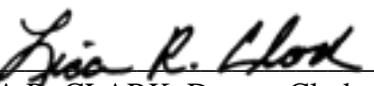
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.  
10 District Court, Northern District of California.

11  
12 That on November 14, 2017, I SERVED a true and correct copy(ies) of the attached, by  
13 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
15 receptacle located in the Clerk's office.  
16

17 Emilio Devera  
18 4757 Greer Court  
19 Fremont, CA 94538

20 Dated: November 14, 2017  
21

22 Susan Y. Soong  
23 Clerk, United States District Court

24  
25 By:   
26 LISA R. CLARK, Deputy Clerk to the  
27 Honorable JAMES DONATO  
28