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2
3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA
5

6 CYNTHIA GLASS,

7 Plaintiff(s),

No. C 09-1554 PJH

8 v.

**ORDER OF DISMISSAL FOR
FAILURE TO PROSECUTE**

9 JOHN E. POTTER,

10 Defendant(s).
11 _____/

12 Plaintiff in the above-entitled matter having failed to appear at the case
13 management conference on August 6, 2009 and having failed to file a case management
14 statement in compliance with the court's order, and order to show cause ("OSC") was
15 issued on August 6, 2009, ordering plaintiff to appear at a hearing to show cause why her
16 case should not be dismissed for failure to prosecute pursuant to Rule 41(b) of the federal
17 Rules of Civil Procedure. The hearing was scheduled for August 20, 2009. Plaintiff was
18 advised in the OSC that the case would be dismissed if she failed to appear again.

19 Plaintiff did not appear at the hearing. However, the court received a letter from
20 plaintiff before the hearing, which states simply, "Re: Rule 41(b) FRCP all is well!" The
21 court does not attempt to discern what plaintiff means by this message.

22 The court having considered the five factors set forth in *Malone v. United States*
23 *Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987), and having determined that
24 notwithstanding the public policy favoring the disposition of actions on their merits, the
25 court's need to manage its docket and the public interest in the expeditious resolution of
26 the litigation require dismissal of this action. In view of plaintiff's lack of response to this
27 court's prior order(s), the court finds there is no appropriate less drastic sanction.
28

1 Accordingly, this action is dismissed with prejudice pursuant to Fed. R. Civ. pro. 41(b) for
2 plaintiff's failure to prosecute.

3 SO ORDERED.

4 Dated: August 20, 2009


PHYLIS J. HAMILTON
United States District Judge

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