

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 12-cv-01719-REB-KMT

THERESA L. DOWLING,

Plaintiff,

v.

BLACK AND MCDONALD,

Defendant.

**ORDER ADOPTING RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

The matter before me is the **Recommendation of United States Magistrate Judge** [#17],¹ filed April 5, 2013. No objections having been filed to the recommendation, I review it only for plain error.² *See Morales-Fernandez v. Immigration & Naturalization Service*, 418 F.3d 1116, 1122 (10th Cir. 2005).³ Finding

¹ “[#17]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court’s electronic case filing and management system (CM/ECF). I use this convention throughout this order.

² The clerk of the court mailed the magistrate judge’s recommendation to plaintiff at the address on file, but it was returned as undeliverable. (*See* [#18], filed April 15, 2013.) Despite her *pro se* status, it is plaintiff’s obligation to apprise the court within five days of any change of mailing address, email address, or telephone number. **D.C.COLO.LCivR 10.1.M.**

³ This standard pertains even though plaintiff is proceeding *pro se* in this matter. *Morales-Fernandez*, 418 F.3d at 1122. In addition, because plaintiff are proceeding *pro se*, I have construed her pleadings more liberally and held them to a less stringent standard than formal pleadings drafted by lawyers. *See Erickson v. Pardus*, 551 U.S. 89, 94, 127 S. Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); *Andrews v. Heaton*, 483 F.3d 1070, 1076 (10th Cir. 2007); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991) (citing *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S.Ct. 594, 595-96, 30 L.Ed.2d 652 (1972)).

no such error in the magistrate judge's recommended disposition, I find and conclude that recommendation should be approved and adopted.

The magistrate judge recommends that this lawsuit be dismissed with prejudice as a sanction for plaintiff's failure to comply with the duly issued orders of the court and failure to prosecute this action. Although dismissal with prejudice is admittedly an extreme sanction, the circumstances chronicled in the magistrate judge's recommendation demonstrate indisputably a "clear record of delay [and] contumacious conduct" warranting the imposition of such a penalty. *Meade v. Grubbs*, 841 F.2d 1512, 1520 n.6 (10th Cir. 1988).

The magistrate judge thoroughly considered all of the relevant factors prescribed by *Ehrenhaus v. Reynolds*, 965 F.2d 916, 921 (10th Cir. 1992). Given both plaintiff's conduct in this case and her lengthy history of past litigation – bordering on barratry – against this defendant (as well as others), I concur with the magistrate judge that nothing short of a dismissal with prejudice is sufficient to deter plaintiff from a clear pattern of abuse of the judicial process.⁴

THEREFORE, IT IS ORDERED as follows:

1. That **Recommendation of United States Magistrate Judge** [#17], filed April 5, 2013, is **APPROVED AND ADOPTED** as an order of this court;
2. That plaintiff's claims against defendant are **DISMISSED WITH PREJUDICE** as a sanction for failure to comply with the duly issued orders of the court and failure to

⁴ I again caution plaintiff that her continued practice of disregarding court orders and failing to prosecute her numerous civil actions with due diligence may result in court-imposed restrictions on her ability to file future cases in this district.

prosecute;

3. That judgment with prejudice **SHALL ENTER** on behalf of defendant, Black and McDonald, against plaintiff, Theresa L. Dowling, on all claims for relief and causes of action asserted in this action; and

4. That defendant is **AWARDED** its costs to be taxed by the clerk of the court in the time and manner prescribed by Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1.

Dated May 1, 2013, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge