

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 23-cv-01665-STV

ANN PIPPERT,

Plaintiff,

v.

CARYAN RESOURCE & DEVELOPMENT, LLC; and
LARRY RUPP,

Defendants.

ORDER TO SHOW CAUSE

Chief Magistrate Judge Scott T. Varholak

This matter is before the Court on [#32] Minute Order directing parties to file a joint status report.

Plaintiff initiated this civil action on June 29, 2023. [#1] The Court set a Final Pretrial Conference for August 21, 2024 and a deadline to file a Joint Proposed Pretrial Order of August 14, 2024. [#22] Due to the parties' failure to timely submit the Joint Proposed Pretrial Order, the Court sua sponte extended the deadline to file to August 19, 2024. [#28] The parties again failed to submit the required filing, and the Court subsequently reset the Final Pretrial Conference to September 18, 2024 and the deadline to file the Joint Proposed Pretrial Order to September 11, 2024. [#29] The parties again failed to submit the required filing, and the Court converted the Final Pretrial Conference to a Status Conference. [#30] At the Status Conference, the parties were ordered to file

a joint status report regarding mediation on or before October 25, 2024. [#31] Due to the parties' failure to timely file a status report by that date, the Court sua sponte extended the deadline to November 5, 2024, which included a warning that failure to timely file may result in an Order to Show Cause. [#32] The parties again failed to submit a status report.

Pursuant to Federal Rule of Civil Procedure 41(b), "[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it." Rule 41(b) "has long been interpreted to permit courts to dismiss actions *sua sponte* for a plaintiff's failure to prosecute or comply with the rules of civil procedure or the court's orders." *Vanmaanen v. N. Plains Trucking*, No. 16-cv-00640-MEH, 2017 WL 491188, at *2 (D. Colo. Feb. 7, 2017) (citing *Link v. Wabash R. Co.*, 370 U.S. 616, 630- 31 (1962)). Accordingly, D.C.COLO.LCivR 41.1 provides:

A judicial officer may issue an order to show cause why a case should not be dismissed for failure to prosecute or failure to comply with these rules, the Federal Rules of Civil Procedure, or a court order. If good cause is not shown, a district judge or a magistrate judge exercising consent jurisdiction may enter an order of dismissal with or without prejudice.

Furthermore, Rule 16(f) provides, in part: "on motion or on its own, the court may issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii)-(vii), if a party or its attorney: . . . (C) fails to obey a scheduling or other pretrial order." Rule 37(b)(2)(A)(v) permits the following sanctions:

- (ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- (iii) striking pleadings in whole or in part;
- (iv) staying further proceedings until the order is obeyed;
- (v) dismissing the action or proceeding in whole or in part;**
- (vi) rendering a default judgment against the disobedient party; or
- (vii) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

Fed. R. Civ. P. 37(b)(2)(A) (ii)–(vii) (emphasis added).

Accordingly, because Plaintiff has failed to comply with Orders by this Court, and has thus far failed to provide the Court with good cause for this failure to participate in the litigation, **IT IS ORDERED** that Plaintiff shall show cause, if any there be, in writing on or before **April 7, 2025**, why her claims should not be dismissed pursuant to Local Rules of Civil Practice of the United States District Court for the District of Colorado Rule 41.1 as well as Federal Rules of Civil Procedure 41(b) and 16(f) for failure to participate in the litigation and failure to appear at a hearing before the Court.

Plaintiff is specifically advised that failure to comply with this Order and timely show cause, in writing, on or before April 7, 2025 may result in the dismissal of this action without any further notice or opportunity to be heard.

DATED: March 10, 2025

BY THE COURT:

s/Scott T. Varholak
Chief United States Magistrate Judge