

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEWMEXICO

SHARON MORALES,

Plaintiff,

v.

16cv1154-JCH-LF

NANCY A. BERRYHILL,<sup>1</sup>  
Acting Commissioner of the  
Social Security Administration,

Defendant.

**PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER is before the Court on its Order to Show Cause. Doc. 3. The Honorable Judith C. Herrera referred this case to me pursuant to 28 U.S.C. §§ 636(b)(1)(B), (b)(3), and *Va. Beach Fed. Sav. & Loan Ass'n v. Wood*, 901 F.2d 849 (10th Cir. 1990), to recommend to the Court an ultimate disposition. Doc. 4. Due to Ms. Morales's failure to serve defendant, and failure to respond to the order to show cause, I recommend the Court dismiss this case without prejudice.

Ms. Morales filed her complaint on October 20, 2016. Doc. 1. She did not serve defendant within 90 days, as required by FED. R. CIV. P. 4(m). On April 19, 2017, I entered an order to show cause, requiring Ms. Morales to provide a written explanation showing good cause for her failure to serve defendant, no later than May 18, 2017, to avoid dismissal of the action. Ms. Morales did not respond to the order to show cause, and the deadline to do so has now passed. Therefore, I recommend the Court dismiss this action without prejudice.

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<sup>1</sup> Nancy A. Berryhill, the new Acting Commissioner of Social Security, is automatically substituted for her predecessor, Acting Commissioner Carolyn W. Colvin, as the defendant in this suit. FED. R. CIV. P. 25(d).

**THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.**

  
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Laura Fashing  
United States Magistrate Judge