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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**
9 **WESTERN DIVISION**
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11	MARY CLEMENT,)	Case No. CV 08-3454-PSG (MLG)
)	
12	Plaintiff,)	MEMORANDUM OPINION AND ORDER
)	DISMISSING COMPLAINT FOR FAILURE
13	v.)	TO PROSECUTE
)	
14	HYRAIL PARTNERS V LLC., ET AL,)	
)	
15	Defendants.)	
)	

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17 This is a *pro se* civil rights action brought pursuant to 42
18 U.S.C. § 1983. The action was filed on May 27, 2008. Plaintiff paid
19 the full filing fee and is not proceeding in forma pauperis. In
20 accordance with the Court's May 28, 2008 Order, Plaintiff was
21 directed to personally serve the defendants with a summons and
22 complaint no later than September 24, 2008. Plaintiff was informed
23 that the failure to timely effect service would result in dismissal
24 of the action. On September 24, 2008, Plaintiff filed a motion to
25 extend the time to effect service. That motion was granted and
26 Plaintiff was given until October 17, 2008 in which to serve the
27 Defendants. No certificates or other indicia of service have been
28 filed as of November 5, 2008.

1 Pursuant to Federal Rule of Civil Procedure 4(m), if service of
2 the summons and complaint is not made within 120 days of the filing
3 of the complaint, the court shall dismiss the matter without
4 prejudice unless good cause is shown to extend the time for service.
5 Plaintiff has not effected service in the time allowed despite being
6 given additional time in which to do so. And, she has not shown good
7 cause for the failure to timely effect service.

8 The Court has the inherent power to achieve the orderly and
9 expeditious disposition of cases by dismissing actions for failure
10 to prosecute. *Link v. Wabash R.R.*, 370 U.S. 626, 629-30 (1962);
11 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992). The Court
12 is required to weigh the following factors in determining whether to
13 dismiss a case for lack of prosecution: "(1) the public's interest
14 in expeditious resolution of litigation; (2) the court's need to
15 manage its docket; (3) the risk of prejudice to the defendants; (4)
16 the public policy favoring disposition of cases on their merits; and
17 (5) the availability of less drastic sanctions." *Ferdik*, 963 F.2d
18 at 1260, 1261; *In re Eisen*, 31 F.3d 1447, 1451 (9th Cir. 1994)
19 (citing *Henderson*, 779 F.2d at 1423); see also *In re PPA Products*
20 *Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006); *Pagtalunan*
21 *v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002).

22 Here, the public's interest in the expeditious resolution of
23 litigation and the court's interest in managing its docket weighs in
24 favor of dismissal. Given Plaintiff's failure to comply with the
25 court's order, dismissal would not undermine the public policy
26 favoring disposition of cases on the merits. In addition, there is
27 no identifiable risk of prejudice to Defendants. Finally, four months
28 have elapsed without Plaintiff having served any one of the

1 defendants. She has failed to demonstrate good cause for failing to
2 perform this preliminary act.

3 Balancing all of these factors, dismissal of this action without
4 prejudice for failure to prosecute is warranted.

5 IT IS SO ORDERED.

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7 Dated: November 5, 2008

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Philip S. Gutierrez
11 United States District Judge

12 Presented By:

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Marc L. Goldman
15 United States Magistrate Judge