

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 31 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RAPHAEL RUSSELL,

Plaintiff-Appellant,

v.

SAFECO INSURANCE COMPANY,

Defendant-Appellee.

No. 16-35381

D.C. No. 2:15-cv-00328-JLR

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
James L. Robart, District Judge, Presiding

Submitted October 23, 2017**

Before: McKEOWN, WATFORD, and FRIEDLAND, Circuit Judges.

Raphael Russell appeals pro se from the district court's judgment dismissing his diversity action alleging claims related to his home insurance policy. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the district court's dismissal for failure to comply with court orders, *Malone v. U.S.*

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Postal Serv., 833 F.3d 128, 130 (9th Cir. 1987), and we affirm.

The district court did not abuse its discretion by dismissing Russell’s action after Russell failed to comply with court orders and meet discovery deadlines, despite being given multiple extensions of time to comply and being warned that failure to comply would result in dismissal. *See id.* (discussing the five factors the district court must weigh before dismissing a case for failure to comply with a court order).

We do not consider documents and facts not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990) (“Documents or facts not presented to the district court are not part of the record on appeal.”).

AFFIRMED.