

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 27 2019

FOR THE NINTH CIRCUIT

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

DAVID STEVEN BRAUN,

Plaintiff-Appellant,

v.

YAHOO! INC.,

Defendant-Appellee.

No. 18-16641

D.C. No. 5:17-cv-06294-SVK

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Susan van Keulen, Magistrate Judge, Presiding**

Submitted August 19, 2019***

Before: SCHROEDER, PAEZ, and HURWITZ, Circuit Judges.

David Steven Braun appeals pro se from the district court's order dismissing his diversity action alleging issues with his Yahoo e-mail account. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a

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

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

dismissal under Federal Rule of Civil Procedure 41(b) for failure to comply with a court order. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). We affirm.

The district court did not abuse its discretion by dismissing Braun's action because Braun failed to file a second amended complaint, or to explain why he did not do so, as ordered. *See Ferdik*, 963 F.2d 1258, 1260-61; *see also Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962) (recognizing the authority of a court to dismiss sua sponte under Rule 41(b)).

Braun's contentions regarding his right to appointment of counsel in the district court and the lack of finality of the district court's order are unpersuasive.

AFFIRMED.