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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Rebecca Jean Burt,

10 Plaintiff,

11 v.

12 Goodwill Industries of Central Arizona,

13 Defendant.
14

No. CV-12-02712-PHX-JAT

ORDER

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16 Pending before the Court is Defendant Goodwill of Central Arizona's Motion for
17 Summary Judgment. (Doc. 45). Plaintiff, however, has not responded to the Motion,
18 despite this Court's *sua sponte* order extending her time to respond and warning that a
19 failure to respond would result in a dismissal on the merits. (Doc. 48 at 2). For the
20 following reasons, the Court will dismiss this case with prejudice, pursuant to Federal
21 Rule of Civil Procedure 41(b).

22 In determining whether to dismiss an action for lack of prosecution, the district
23 court is required to weigh several factors:

- 24 (1) the public's interest in expeditious resolution of litigation;
25 (2) the court's need to manage its docket;
26 (3) the risk of prejudice to the defendants;
27 (4) the public policy favoring disposition of cases on their merits and
28 (5) the availability of less drastic sanctions.

1 *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir.1986); Fed. R. Civ. P. 41(b).

2 Next week marks the two-year anniversary of the filing of the Complaint in this
3 case. Plaintiff has filed general motions to extend time, has failed to appear at her own
4 deposition, and has requested a substitution of the judge. Yet, she has not seen fit to
5 respond to Defendant's motion for summary judgment, despite the Court giving her an
6 unrequested extension of time to do so "out of an abundance of caution." (Doc. 48 at 2).
7 The Court has also ordered Plaintiff to compensate Defendant for the costs it incurred for
8 her failure to appear at her deposition. (Doc. 39). Thus, the Court has already pursued—
9 unsuccessfully—less drastic measures in its effort to allow this case to go forward.
10 Despite these efforts, Plaintiff has ignored the Court's order to respond to Defendant's
11 Motion. The public's interest in expeditious resolution of litigation and the Court's need
12 to manage its docket therefore weigh in favor of dismissing this case on the merits under
13 Rule 41(b).

14 Accordingly,

15 **IT IS ORDERED** dismissing this case with prejudice.

16 **IT IS FURTHER ORDERED** that all pending motions are denied as moot.

17 Dated this 18th day of December, 2014.

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22 James A. Teilborg
23 Senior United States District Judge
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