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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PAUL DEN BESTE,
Apellant,
v.
PATRICK BULMER ALSO KNOWN AS
CALIFORNIA RECEIVERSHIP
SERVICES,
Defendant.

No. 2:13-cv-01893-TLN

AMENDED ORDER DISMISSING CASE

The Court has issued numerous orders directing Appellant Paul Beste (“Appellant”) to comply with the local rules governing the Eastern District of California as well as this Court’s orders. (*See* ECF Nos. 17, 18, 22 and 24.) On April 16, 2014, the Court ordered Appellant to file his opening brief within twenty-one (21) days. (Order, ECF No. 18.) Appellant complied but then failed to file his reply brief. Accordingly, the Court issued an order to show cause on June 23, 2014, as to why Appellant had not adhered to the Court’s order. (Min. Oder, ECF No. 22.) On July, 7, 2014, Appellant responded and, in turn, the Court afforded Appellant one last opportunity to comply. Thus, on July 11, 2014, this Court ordered Appellant to file his reply brief with the District Court within fourteen (14) days. Appellant was further ordered to “notify

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1 the District Court in writing, within fourteen (14) days after service of Appellant’s reply brief,
2 that the appeal is ready for oral argument.” (ECF No. 24.) In its Order, the Court warned
3 Appellant that should he once again fail to file his reply brief and file a notification with the Court
4 that this matter would be dismissed. The time for compliance has come and gone and the Court is
5 still not in receipt of Appellant’s reply brief, nor has Appellant notified this Court in accordance
6 with the Order.

7 “The authority of a federal trial court to dismiss a plaintiff’s action with prejudice because
8 of his failure to prosecute cannot seriously be doubted.” *Link v. Wabash R. Co.*, 370 U.S. 626,
9 629 (1962). The Ninth Circuit has set forth five factors that a district court must consider before
10 dismissing a case for failure to prosecute:

11 [1] the court’s need to manage its docket, [2] the public interest in
12 expeditious resolution of litigation, [3] the risk of prejudice to
13 defendants from delay, [4] the policy favoring disposition of cases
on their merits.

14 *Morris v. Morgan Stanley & Co.*, 942 F.2d 648, 651 (9th Cir. 1991). For the reasons set forth
15 below, the Court finds that these factors weigh in favor of dismissing this case.

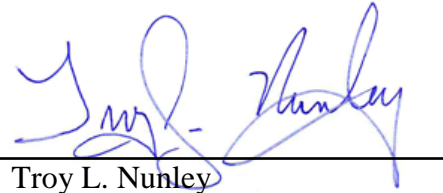
16 First, the Court has an inherent need to manage its docket. Appellant filed this case in
17 September of 2013, and still has not filed his reply brief. In contrast, Appellee has been diligent
18 in its defense. (*See* Appellee’s Brief, ECF No. 20.) Consequently, the Court finds that this factor
19 weighs in favor of dismissing this case. Second, the public’s interest in expeditious resolution of
20 litigation also favors dismissing this case because the Court is wasting its time and resources
21 attempting to compel Appellant’s cooperation in litigating his own case. Third, Appellant’s
22 repeated failure to respond to correspondence prevents Appellees from seeking some sort of
23 resolution. Finally, although the disposition of cases based on their merits is preferred, it is
24 unlikely that such is an option here. The Court simply cannot move forward without Appellant’s
25 assistance.

26 Thus, for the aforementioned reasons, the Court finds that all four factors support
27 dismissing Appellant’s case. As such, the Court hereby DISMISSES all pending claims against
28 Appellees in this action. In accordance with this Court’s Amended Order, the Clerk’s Office is

1 hereby directed to strike the Court's previous order (ECF No. 25). This case is CLOSED.

2 IT IS SO ORDERED.

3 Dated: August 28, 2014



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6 Troy L. Nunley
United States District Judge

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