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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PAMELA E. WATKINS,  
Plaintiff,  
v.  
UNITED STATES POSTAL SERVICE,  
Defendant.

No. 2:17-cv-612-TLN-KJN PS

ORDER

Plaintiff Pamela Watkins, proceeding without counsel, commenced this action against the United States Postal Service on March 23, 2017, and ultimately paid the filing fee. (ECF No. 1.)<sup>1</sup> Liberally construed, plaintiff’s complaint appears to allege some type of civil rights claim based on electronic harassment, plaintiff being called names by supervisors and/or co-workers, and plaintiff being shocked in her right leg by her “satchel, scanner, and arrow keys.” (Id.) Plaintiff seeks monetary damages, a job transfer, an MRI scan, and removal of a foreign body from her person. (Id.)

At an August 31, 2017 status conference, plaintiff appeared representing herself. At that time, the court noted the insufficiency of plaintiff’s service of process and that the 90-day period

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<sup>1</sup> Plaintiff has consented to proceed before a United States Magistrate Judge for all purposes pursuant to 28 U.S.C. § 636(c). (ECF No. 6.)

1 for service of process had expired. However, as the court also observed at the status conference,  
2 the court is not unsympathetic to the difficulties faced by a *pro se* litigant in representing herself  
3 in federal court. As such, in light of plaintiff's *pro se* status, and the court's desire to resolve the  
4 action on the merits, the court granted plaintiff a 30-day extension of time to complete service of  
5 process and file a proof of service with the court. In the September 1, 2017 order following the  
6 status conference, the court also expressly referred plaintiff to the applicable Federal Rules to  
7 consult in order to properly complete service of process. (See ECF No. 9 at 2 [citing Fed. R. Civ.  
8 P. 4(c)(2) (outlining who may serve process); Fed. R. Civ. P. 4(i)(1)-(2) (outlining the specific  
9 methods for serving an agency of the United States)].) Nevertheless, plaintiff was also cautioned  
10 that future failure to properly complete service of process by the required deadline would result in  
11 dismissal of the action pursuant to Federal Rule of Civil Procedure 41(b). (Id. at 3.)

12 Although the new deadline has now long passed, no proof of service was filed indicating  
13 that plaintiff had properly completed service of process, nor has plaintiff requested an extension  
14 of time to do so based on good cause. There has also been no appearance by defendant. At this  
15 juncture, the court has little choice but to dismiss the action pursuant to Federal Rule of Civil  
16 Procedure 41(b) for failure to comply with court orders and failure to prosecute the action.

17 A court must weigh five factors in determining whether to dismiss a case for failure to  
18 prosecute, failure to comply with a court order, or failure to comply with a district court's local  
19 rules. See, e.g., Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992). Specifically, the court  
20 must consider:

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

24 Id. at 1260-61; accord Pagtalunan v. Galaza, 291 F.3d 639, 642-43 (9th Cir. 2002).

25 Here, the first two factors strongly weigh in favor of dismissal, because this case has  
26 already been significantly delayed by plaintiff's failure to properly serve the defendant. The third  
27 factor also slightly favors dismissal, because witnesses' memories fade and evidence becomes  
28 stale with the passage of time brought about by unnecessary delay.

