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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ERIC GEROLD,

Plaintiff,

v.

UNITED STATES GOVERNMENT,  
et al.,

Defendants.

No. C 07-4004 PJH

**ORDER OF DISMISSAL**

**United States District Court**  
For the Northern District of California

On January 8, 2008, this court dismissed without prejudice plaintiff's complaint and application to proceed in forma pauperis. Plaintiff was advised to file an amended complaint no later than January 28, 2008. Plaintiff failed to file an amended complaint by that date.

The court has considered the five factors set forth in Malone v. United States Postal Service, 833 F.2d 128, 130 (9th Cir. 1987), and has determined that notwithstanding the public policy favoring the disposition of actions on their merits, the court's need to manage its docket and the public interest in the expeditious resolution of the instant litigation require dismissal of this action. In view of plaintiff's lack of response to this court's prior order, the court finds there is no appropriate less drastic sanction.

Accordingly, this action is DISMISSED with prejudice pursuant to Fed. R. Civ. Pro. 41(b) for plaintiff's failure to prosecute.

**IT IS SO ORDERED.**

Dated: February 1, 2008



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PHYLLIS J. HAMILTON  
United States District Judge