

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY DONELSON,

Plaintiffs,

No. C 12-0725 PJH

v.

**ORDER DISMISSING CASE**

JAMES O'CALLAHGAN, et al.,

Defendants.

On June 14, 2012, following plaintiff Anthony Donelson's failure to appear at a scheduled case management conference, the court issued an order to show cause ("OSC") why the above-entitled action should not be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute, and pursuant to Federal Rule of Civil Procedure 4(m) for failure to serve the defendants within 120 days of filing the complaint.

The OSC ordered plaintiff to appear at the Federal Courthouse on July 5, 2012, at 2:00 p.m., and cautioned that if plaintiff failed to appear, the case would be dismissed for failure to prosecute. Plaintiff did not appear at the hearing on the OSC on July 5, 2012 as ordered. Nor did he file an opposition to the defendants' pending motion to dismiss, which is presently set for hearing on August 8, 2012.

The court having considered the five factors set forth in Malone v. United States Postal Service, 833 F.2d 128, 130 (9th Cir. 1987), and having 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 litigation require dismissal of this action. In view of plaintiff's lack of response to this court's prior order(s), the court finds there is no appropriate less drastic sanction. Accordingly, this

1 action is dismissed pursuant to Fed. R. Civ. pro. 41(b) for plaintiff's failure to prosecute.

2 The August 8, 2012 hearing date is VACATED.

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4 **IT IS SO ORDERED.**

5 Dated: July 23, 2012



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PHYLLIS J. HAMILTON  
United States District Judge