

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PATRICIA HUNT,)	CIVIL 14-00081 LED-RLP
)	
Plaintiff,)	
)	
vs.)	
)	
ROSS DRESS FOR LESS LLC, LC)	
ROSS STORES INC. AND OWNERS)	
MICHAEL SULLIVAN, JOHN CALL,)	
AND ROSS DRESS FOR LESS IS A)	
FOREIGN CORPORATION, CONVOY,)	
SIMBERG, GANNON LAW FIRM AND)	
ALL PARTIES,)	
)	
Defendants.)	
_____)	

ORDER DISMISSING COMPLAINT WITH PREJUDICE

On March 13, 2014, this Court issued an order adopting the magistrate judge’s Findings and Recommendation that the District Court Dismiss the Complaint with Leave to Amend and Deny Plaintiff’s Application to Proceed Without Prepaying Fees, filed February 24, 2014 (“F&R”). [Dkt. nos. 7, 8.]

Pursuant to the F&R, as adopted by this Court, pro se Plaintiff Patricia Hunt’s (“Plaintiff”) amended complaint was due “no later than thirty days from the district court’s adoption of” the F&R. [F&R at 5.] Because thirty days after March 13, 2014 was Saturday, April 12, 2014, Plaintiff’s amended complaint was due on Monday, April 14, 2014. See Fed. R. Civ. P. 6(a)(1)(C) (“if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not

a Saturday, Sunday, or legal holiday"). Plaintiff, however, failed to file an amended complaint, and has not requested an extension of time to file her amended complaint.

In light of Plaintiff's failure to comply with this Court's order and the F&R, and in light of Plaintiff's failure to correct the deficiencies identified in the F&R in a timely manner, this Court has the discretion to dismiss Plaintiff's complaint with prejudice. See Yourish v. Cal. Amplifier, 191 F.3d 983, 988 (9th Cir. 1999) (holding that the plaintiff's failure to comply with a minute order setting forth the deadline to file the amended complaint granted the district court the discretion to dismiss the case under Fed. R. Civ. P. 41(b)).¹ After weighing the five dismissal factors set forth in Dreith v. Nu Image, Inc., 648 F.3d 779, 788 (9th Cir. 2011),² this Court finds that the public interest in expeditious resolution of this

¹ Rule 41(b) states, in pertinent part: "If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."

² The Ninth Circuit has

identified five factors that a district court must consider before dismissing a case . . . : (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the other party; (4) the public policy favoring the disposition of cases on their merits; and (5) the availability of less drastic sanctions.

Dreith, 648 F.3d at 788 (citations and quotation marks omitted).

litigation and this Court's interest in managing the docket strongly outweigh the policy favoring disposition of cases on the merits. Moreover, the defendants apparently have not yet been served and will not be prejudiced by dismissal, and there are no less drastic alternatives available at this time.

Plaintiff's Complaint, which this Court previously dismissed without prejudice, is HEREBY DISMISSED WITH PREJUDICE. This Court DIRECTS the Clerk's Office to close the case.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, April 17, 2014.



/s/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States District Judge

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