

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

LUCENA – HOUSE OF YANOS,

Plaintiff,

vs.

DAVID B. ROSEN, *et al.*,

Defendants.

CIV. NO. 16-00528 DKW-KJM

ORDER DISMISSING CASE

ORDER DISMISSING CASE

On September 22, 2016, Plaintiff Lucena - House of Yanos, proceeding pro se, filed a new action entitled “Notice of Distress” as a miscellaneous case (Misc. No. 16-00263 DKW-KJM) and paid the \$46 filing fee. On September 26, 2016, the Court converted the miscellaneous case to a civil case, and issued a Deficiency Order. Dkt. No. 3. That same day, the Court mailed the Deficiency Order and an application to proceed *in forma pauperis* (“IFP”) to Plaintiff at the address she provided on the Notice of Distress. On October 3, 2016, the mailing sent to Plaintiff on September 26, 2016 was returned to the Court marked “Return to Sender,” with the postal notation “Forward Time Exp.” Dkt. No. 4. On October 6,

2016, the Deficiency Order was served by First Class mail to the forwarding address provided (P.O. Box 6066, Kahului, HI 96733-6066) and was not returned to the Court as undeliverable thereafter.

The Deficiency Order granted Plaintiff leave to take one of the following actions by October 21, 2016: (a) pay the full filing fee; (b) file a Notice of Withdrawal of this action and obtain reimbursement of the \$46 from the Clerk's Office; or (c) submit a completed and executed IFP application. The Deficiency Order cautioned Plaintiff that failure to take one of these actions by October 21, 2016 would result in the automatic dismissal of this case for failure to prosecute or otherwise follow a court order. *See* Fed. R. Civ. P. 41(b); *Olivares v. Marshall*, 59 F.3d 109, 112 (9th Cir. 1995) (stating that the district court has authority to dismiss the complaint for failure to pay partial filing fee); *In re Perroton*, 958 F.2d 889, 890 (9th Cir. 1992) (affirming dismissal of appeal of pro se litigant for failure to pay required filing fees).


Because Plaintiff has not filed a notice of a change of address in accordance with Local Rule 83.1(h), paid the proper filing fee, filed a Notice of Withdrawal of

the civil action, or filed an IFP application, the Court DISMISSES the civil action,
Civil No. 16-00528 DKW-KJM (formerly Misc. No. 16-00263 DKW-KJM).

IT IS SO ORDERED.

DATED: November 2, 2016 at Honolulu, Hawaii.




Derrick K. Watson
United States District Judge

Lucena – House of Yanos v. Rosen et al., CV 16-00528 DKW-KJM; **ORDER DISMISSING CASE**