

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

NANETTE STONE,)	CIVIL 18-00144 LEK-KSC
)	
Plaintiff,)	
)	
vs.)	
)	
Q4S SECURITY FIRM,)	
)	
Defendant,)	
)	

ORDER DISMISSING CASE WITHOUT PREJUDICE

On April 18, 2018, pro se Plaintiff Nanette Stone ("Plaintiff") filed, *inter alia*, her Complaint and a Petition for Ex Parte Temporary Restraining Order and for Injunction Against Harassment ("TRO Motion"). [Dkt. nos. 1, 3.] On September 5, 2018, this Court issued an Order to Show Cause Why Case Should Not Be Dismissed for Failure to Prosecute ("OSC"). [Dkt. no. 20.] The OSC directed Plaintiff to file a response by October 3, 2018, explaining why the case should not be dismissed without prejudice. Plaintiff was cautioned that, if she failed to file a response to the OSC, this case would be dismissed without prejudice. [OSC at 2.] This Court also stated it would take no action on the TRO Motion until after it addressed Plaintiff's response to the TRO. [Id. at 3.]

Because Plaintiff has neither filed a response to the OSC nor requested an extension of the October 3, 2018 deadline, this Court has the discretion to dismiss the 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 gave 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 the expeditious resolution of this litigation and this Court's interest in managing the docket strongly outweigh the policy favoring disposition of cases on the merits. Moreover, Defendant G4S Secure Solutions USA Inc. - which was incorrectly identified in the Complaint as Q4S Security Firm ("Defendant") - will not be prejudiced by the dismissal because there have been limited filings in this case, and Defendant has

¹ Fed. R. Civ. P. 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).

filed no dispositive motions. Further, there are no less drastic alternatives available at this time.

Plaintiff's Complaint is HEREBY DISMISSED. The dismissal is WITHOUT PREJUDICE insofar as Plaintiff may file a **new case** to pursue the claims that survived the screening process in this case. See Order Granting Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, Dismissing Plaintiff's Complaint in Part, and Ordering Service of the Remaining Portion of Plaintiff's Complaint, filed 4/23/18 (dkt. no. 6). In other words, Plaintiff no longer has any remaining claims in **this case**.

In light of the dismissal of the Complaint, Plaintiff's TRO Motion is HEREBY DENIED AS MOOT. This Court DIRECTS the Clerk's Office to close the case on **October 25, 2018**, unless Plaintiff files a motion for reconsideration of this Order by **October 22, 2018**.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, October 4, 2018.



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

**NANETTE STONE VS. Q4S SECURITY FIRM; CV 18-00144 LEK-KSC; ORDER
DISMISSING CASE WITHOUT PREJUDICE**