

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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LAUSTEVEION JOHNSON,

Case No. 2:16-cv-00042-MMD-GWF

Plaintiff,

ORDER

v.

KRAFT FOODS d/b/a MAXWELL HOUSE,
et al.,

Defendants.

On August 28, 2018, Plaintiff was directed to file an amended complaint within thirty (30) days. (ECF No. 47 at 5.) That deadline has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order.¹

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action with prejudice based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissing case for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissing case for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissing case for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissing

¹However, defendant Kraft Heinz Foods Company, LLC (improperly named in the case caption) filed a motion alerting the Court to the fact that the 30-day deadline had passed and requesting that this case be dismissed with prejudice. (ECF No. 48.)

1 case for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421, 1424
2 (9th Cir. 1986) (dismissing case for lack of prosecution and failure to comply with local
3 rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey
5 a court order, or failure to comply with local rules, the court must consider several
6 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need
7 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
8 favoring disposition of cases on their merits; and (5) the availability of less drastic
9 alternatives. See Thompson, 782 F.2d at 831; Henderson, 779 F.2d at 1423-24; Malone,
10 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali, 46 F.3d at 53.

11 Here, the Court finds that the first two factors—the public's interest in
12 expeditiously resolving this litigation and the Court's interest in managing the docket—
13 weigh in favor of dismissal. The third factor, risk of prejudice to defendant, also weighs in
14 favor of dismissal, since a presumption of injury arises from the occurrence of
15 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.
16 See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the
17 public policy favoring disposition of cases on their merits—is greatly outweighed by the
18 factors in favor of dismissal discussed herein. Finally, a court's warning to a party that
19 his failure to obey the court's order will result in dismissal satisfies the "consideration of
20 alternatives" requirement. See Ferdik, 963 F.2d at 1262; Malone, 833 F.2d at 132-33;
21 Henderson, 779 F.2d at 1424. The Court's order requiring Plaintiff to file an amended
22 complaint within thirty days expressly stated: "Plaintiff will be given thirty (30) days to file
23 an amended complaint. . . . Failure to file an amended complaint within that time frame
24 will result in dismissal of this action with prejudice." (ECF No. 47 at 5.) Thus, Plaintiff had
25 adequate warning that dismissal would result from his noncompliance with the Court's
26 order to file an amended complaint.

27 It is therefore ordered that this action is dismissed with prejudice based on
28 Plaintiff's failure to file an amended complaint in compliance with this Court's order.

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DATED THIS 16th day of October 2018.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE