

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOSEPH ALEXANDER MERVIS,	Case No. 2:17-CV-2605 JCM (NJK)
Plaintiff(s),	ORDER
v.	
MGM INTERNATIONAL,	
Defendant(s).	

Presently before the court is defendant MGM International's motion to dismiss. (ECF No. 6). Plaintiff has not filed a response, and the time for doing so has since passed.

Local Rule 7-2(d) states that "[t]he failure of an opposing party to file points and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes a consent to the granting of the motion."

"Failure to follow a district court's local rules is a proper ground for dismissal." Ghazali v. Moran, 46 F.3d 52. In Ghazali, defendants filed a motion to dismiss. Id. at 53. Plaintiff, who represented himself pro se, failed to oppose defendant's motion. Id. at 54. The court granted defendant's motion based on plaintiff's failure to file an opposition. Id. at 53. The Ninth Circuit upheld the decision of the district court. Id. at 54. "[P]ro se litigants are bound by the rules of procedure. [Plaintiff] did not follow them, and his case was properly dismissed." Id.

"Before dismissing an action [for failure to follow local rules], the district court is required to weigh several factors: '(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 defendants; (4) the public policy favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions.'" Id. (quoting Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986)).

1 Here, as plaintiff has not opposed the motion to dismiss, it has consented to the granting of
2 the motion. LR 7-2(d). Further, the Ghazali factors favor dismissal of plaintiff's complaint. See
3 46 F.3d at 54. This case was transferred from the Northern District of Ohio, and plaintiff has failed
4 to appear since the case was transferred to the District of Nevada. Plaintiff's failure to appear
5 prejudices defendant and strains the court's ability to manage its docket. See id. In addition, the
6 court has reviewed defendant's motion, and the motion presents meritorious arguments that favor
7 dismissal of plaintiff's complaint.

8 As the court will grant defendant's motion based on plaintiff's failure to respond, which
9 defendant highlights in its notice of consent, (ECF No. 9), the court will dismiss plaintiff's
10 complaint without prejudice.


11 Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant's motion to
13 dismiss (ECF No. 6) be, and the same hereby is, GRANTED.

14 IT IS FURTHER ORDERED that plaintiff's complaint be, and the same hereby is,
15 DISMISSED WITHOUT PREJUDICE.

16 The clerk shall enter judgment accordingly and close the case.

17 DATED February 6, 2018.

18 
19 _____
20 UNITED STATES DISTRICT JUDGE