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28UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DANIEL TRINIDAD, JR.,

Case No. 3:17-cv-00353-MMD-WGC

Plaintiff,

ORDER

v.

UNITED PARCEL SERVICE,

Defendant.

On August 7, 2018, Plaintiff was directed to file an amended complaint by September 7, 2018. (ECF No. 43 at 9.) That deadline has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order.

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) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal 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) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

In determining whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the court must consider several

1 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need
2 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
3 favoring disposition of cases on their merits; and (5) the availability of less drastic
4 alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833
5 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

6 In the instant case, the Court finds that the first two factors, the public's interest in
7 expeditiously resolving this litigation and the Court's interest in managing the docket,
8 weigh in favor of dismissal. The third factor, risk of prejudice to Defendant, also weighs
9 in favor of dismissal, since a presumption of injury arises from the occurrence of
10 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.
11 See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public
12 policy favoring disposition of cases on their merits—is greatly outweighed by the factors
13 in favor of dismissal discussed herein. Finally, a court's warning to a party that his failure
14 to obey the court's order will result in dismissal satisfies the "consideration of
15 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;
16 *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file an amended
17 complaint by September 7, 2018, expressly stated: "Failure to file an amended complaint
18 by September 7, 2018, will result in dismissal of this action with prejudice." (ECF No. 43
19 at 9.) Thus, Plaintiff had adequate warning that dismissal would result from his
20 noncompliance with the Court's order to file an amended complaint.

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

23 DATED THIS 10th day of September 2018.

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25 _____
26 MIRANDA M. DU
27 UNITED STATES DISTRICT JUDGE
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