



April 8, 2013.

By order dated June 11, 2013, the Court directed Plaintiff to file a report on the status of the case no later than July 1, 2013, and warned Plaintiff that if she did not file the status report “the Court may dismiss the claims upon proper motion.”<sup>3</sup> The order was served upon Plaintiff by U.S. Mail to the address listed in the complaint, and the Court notes that the docket does not reflect that the order was returned as undeliverable to Plaintiff. Plaintiff did not file a status report. On July 10, 2013, the City filed and served a motion to dismiss, arguing that Plaintiff has abandoned her case. Plaintiff did not respond to the motion.

In determining whether the harsh sanction of dismissal is appropriate where the Plaintiff has failed to prosecute, the Court weighs the following six factors:

(1) the extent of the party’s personal responsibility; (2) the prejudice to the adversary caused by the failure to meet scheduling orders and respond to discovery; (3) a history of dilatoriness; (4) whether the conduct of the party or the attorney was willful or in bad faith; (5) the effectiveness of sanctions other than dismissal, which entails an analysis of alternate sanctions; and (6) the meritoriousness of the claims or defenses.<sup>4</sup>

Each factor need not weigh in favor of dismissal for the Court to dismiss a claim.<sup>5</sup> As Plaintiff is now proceeding *pro se*, she is responsible for the failure to respond either to the Court’s June 11, 2013 order or to the City’s motion. The City is prejudiced by Plaintiff’s failure to prosecute her case, as such inaction “frustrates and delays the resolution of this action.”<sup>6</sup> Since the

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<sup>3</sup> Doc. No. 80.

<sup>4</sup> Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863, 868 (3d Cir. 1984) (emphasis omitted).

<sup>5</sup> Ware v. Rodale Press, Inc., 322 F.3d 218, 221 (3d Cir. 2003).

<sup>6</sup> Metro Metals USA v. All-State Diversified Prods., Inc., No 12-1448, 2013 WL 1786593, at \*2 (D.N.J. Apr. 25, 2013).

resolution of the claims against certain defendants, Plaintiff has taken no action to move the case forward, either by cooperating with her counsel, or, after counsel was permitted to withdraw, on her own.<sup>7</sup> Without any communication from Plaintiff, the case simply cannot proceed at this time.<sup>8</sup> The Court does note that the City did not attempt to dismiss the claims on the merits at this time, and therefore the Court assumes that the claim against the City is potentially meritorious. Upon balancing all of the factors, and considering that without Plaintiff's participation there are no appropriate alternative sanctions,<sup>9</sup> the Court will dismiss the case without prejudice. An order will be entered.

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<sup>7</sup> Mindek v. Rigatti, 964 F.2d 1369 (3d Cir. 1992).

<sup>8</sup> Guyer v. Beard, 907 F.2d 1424, 1430 (3d Cir. 1990).

<sup>9</sup> Briscoe v. Klaus, 538 F.3d 252, 262-63 (3d Cir. 2008).