

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 28 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

BARBARA E. BROWN,

Plaintiff-Appellant,

v.

STATE OF CALIFORNIA DEPARTMENT
OF MOTOR VEHICLES; et al.,

Defendants-Appellees,

and

STATE OF CALIFORNIA, official
capacity; et al.,

Defendants.

No. 19-55607

D.C. No.

5:18-cv-01418-CJC-E

Central District of California,
Riverside

ORDER

Before: CLIFTON, N.R. SMITH, and FRIEDLAND, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the order challenged in the appeal is not final or appealable. *See* 28 U.S.C. § 1291; *United States v. Washington*, 573 F.2d 1121, 1122 (9th Cir. 1978) (order denying motion to disqualify judge is not final or appealable). Consequently, this appeal is dismissed for lack of jurisdiction.

All pending motions are denied as moot.

DISMISSED.

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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 BARBARA E. BROWN,) NO. ED CV 18-1418-CJC(E)
12 Plaintiff,)
13 v.) REPORT AND RECOMMENDATION OF
14 CA DMV, et al.,) UNITED STATES MAGISTRATE JUDGE
15 Defendants.)
16 _____)
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18 This Report and Recommendation is submitted to the Honorable
19 Cormac J. Carney, United States District Judge, pursuant to 28 U.S.C.
20 section 636 and General Order 05-07 of the United States District
21 Court for the Central District of California.
22

23 **PROCEEDINGS**
24

25 On July 3, 2018, Plaintiff filed a "Civil Rights" Complaint. On
26 July 23, 2018, the Court filed an "Order Re Complaint." This Order
27 dismissed some claims without leave to amend and dismissed the
28 remaining claims with leave to amend. As to the latter, the Order

1 allowed Plaintiff to file a First Amended Complaint within thirty (30)
2 days of July 23, 2018. The Order cautioned Plaintiff that failure to
3 file a timely First Amended Complaint could result in the dismissal of
4 this action. Plaintiff did not file a First Amended Complaint within
5 the allotted time.

6 7 DISCUSSION

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9 The action should be dismissed without prejudice. The Complaint
10 is defective for the reasons stated in the July 23, 2018 Order.
11 Plaintiff has failed to file a First Amended Complaint within the
12 allotted time. The Court has inherent power to achieve the orderly
13 and expeditious disposition of cases by dismissing actions for failure
14 to prosecute. Link v. Wabash R.R., 370 U.S. 626, 629-30 (1962); see
15 Fed. R. Civ. P. 41(b). The Court has considered the factors recited
16 in Ferdik v. Bonzelet, 963 F.2d 1258, 1260-62 (9th Cir.), cert.
17 denied, 506 U.S. 915 (1992), and has concluded that dismissal without
18 prejudice is appropriate. In particular, any less drastic alternative
19 would not be effective under the circumstances of this case.

20 21 RECOMMENDATION

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23 For all of the foregoing reasons, IT IS RECOMMENDED that the
24 Court issue an Order: (1) accepting and adopting this Report and

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1 Recommendation; and (2) directing that Judgment be entered dismissing
2 the action without prejudice.

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4 DATED: August 30, 2018.

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6 /s/
7 CHARLES F. EICK
8 UNITED STATES MAGISTRATE JUDGE
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1 **NOTICE**

2 Reports and Recommendations are not appealable to the Court of
3 Appeals, but may be subject to the right of any party to file
4 objections as provided in the Local Rules Governing the Duties of
5 Magistrate Judges and review by the District Judge whose initials
6 appear in the docket number. No notice of appeal pursuant to the
7 Federal Rules of Appellate Procedure should be filed until entry of
8 the judgment of the District Court.

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 BARBARA E. BROWN,) NO. ED CV 18-1418-CJC(E)
12 Plaintiff,)
13 v.) ORDER ACCEPTING FINDINGS,
14 CA DMV, et al.,) CONCLUSIONS AND RECOMMENDATIONS
15 Defendants.) OF UNITED STATES MAGISTRATE JUDGE
16 _____)
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18 Pursuant to 28 U.S.C. section 636, the Court has reviewed the
19 Complaint, all of the records herein and the attached Report and
20 Recommendation of United States Magistrate Judge. Further, the Court
21 has engaged in a de novo review of those portions of the Report and
22 Recommendation to which any objections have been made. The Court
23 accepts and adopts the Magistrate Judge's Report and Recommendation.
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25 IT IS ORDERED that Judgment shall be entered dismissing the
26 action without prejudice.

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1 IT IS FURTHER ORDERED that the Clerk serve forthwith a copy of
2 this Order and the Judgment of this date on Plaintiff.

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4 DATED: _____, 2018.

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8 CORMAC J. CARNEY
9 UNITED STATES DISTRICT JUDGE
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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 BARBARA E. BROWN,) NO. ED CV 18-1418-CJC(E)
12 Plaintiff,)
13 v.) JUDGMENT
14 CA DMV, et al.,)
15 Defendants.)
16 _____)

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18 IT IS ADJUDGED that the action is dismissed without prejudice.
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20 DATED: _____, 2018.
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23 _____
24 CORMAC J. CARNEY
25 UNITED STATES DISTRICT JUDGE
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**Additional material
from this filing is
available in the
Clerk's Office.**