

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES - GENERAL

Case No.: 2:22-cv-01032-SB-SK

Date: July 15, 2022

Title: *RJ Kulick v. United States Bankruptcy Court et al.*

Present: The Honorable **STANLEY BLUMENFELD, JR., U.S. District Judge**

Jennifer Graciano

N/A

Deputy Clerk

Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Appearing

None Appearing

Proceedings: [In Chambers] ORDER DISMISSING CASE FOR LACK OF PROSECUTION

This matter was filed on February 14, 2022. Dkt. No. 1. Because Plaintiff had not filed a proof of service for any defendant within 90 days as required by Federal Rule of Civil Procedure 4(m), the Court on May 16, 2022 ordered Plaintiff to show cause (OSC) in writing by May 23, 2022 why this action should not be dismissed for lack of prosecution. Dkt. No. 17. The OSC stated that the Court would consider as an appropriate response either “the filing of proof(s) of service showing that the relevant defendants were served with the complaint in this case within the 90-day period or a showing of good cause for extending the service period.” *Id.* The OSC also stated that failure to properly respond “will result in the dismissal without prejudice of the action in its entirety.” *Id.*

Plaintiff has yet to file proofs of service on any defendant. Instead, Plaintiff filed a motion in response to the OSC, which fails to demonstrate good cause for extending the service period. Dkt. No. 18. The motion, which is difficult to understand, appears to assert that it is “unconstitutional” to require him to comply with Rule 4(m) or dismiss the action for his failure to do so. *Id.* This argument is

meritless. In light of Plaintiff's inaction in attempting to effect service and his improper submission in response to the OSC, the Court has no basis to conclude that a reasonable extension of time will result in proper service of the defendants. Moreover, the Court has "warned [Plaintiff] that he must adhere fully to all Court orders and cease submitting improper motions." Dkt. No. 15. Instead of heeding that order, Plaintiff responded to the OSC by submitting an improper motion and improper correspondence. Dkt. Nos. 18, 19.

Because Plaintiff has failed to timely serve any defendant or establish good cause for that failure, the Court **dismisses** this action in its entirety without prejudice.

IT IS SO ORDERED.

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JAN 25 2023

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

R. J. KULICK,

Plaintiff-Appellant,
v.

UNITED STATES BANKRUPTCY
COURT, Central District of CA, Northern
Division; et al.,

Defendants-Appellees.

No. 22-55750

D.C. No. 2:22-cv-01032-SB-SK
Central District of California,
Los Angeles

ORDER

Before: SILVERMAN, GRABER, and BENNETT, Circuit Judges.

Kulick's petition for panel rehearing (Docket Entry No. 7) is denied.

No further filings will be entertained in this closed case.

FILED

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

OCT 18 2022

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

R. J. KULICK,

Plaintiff-Appellant,

v.

UNITED STATES BANKRUPTCY
COURT, Central District of CA, Northern
Division; HOWARD I. CAMHI; JEFF F.
TCHAKAROV; MICHELMAN AND
ROBINSON, LLC; DOES, 1-100, inclusive,

Defendants-Appellees.

No. 22-55750

D.C. No. 2:22-cv-01032-SB-SK

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stanley Blumenfeld, Jr., District Judge, Presiding

Submitted October 12, 2022**

Before: SILVERMAN, GRABER, and BENNETT, Circuit Judges.

R.J. Kulick appeals pro se from the district court's order dismissing without prejudice for lack of prosecution his action alleging various federal and state law

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

claims. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

In his opening brief, Kulick fails to address the grounds for dismissal of his action and has therefore waived his challenge to the district court's dismissal of his action. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (“[W]e will not consider any claims that were not actually argued in appellant's opening brief.”); *Acosta-Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument in a pro se appellant's opening brief are waived).

AFFIRMED.