

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

OCT 30 2009

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

DIANNE BARKER,

Plaintiff - Appellant,

v.

HERTZ CORP.; et al.,

Defendants - Appellees.

No. 08-16743

D.C. No. 2:07-cv-00554-MHM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Mary H. Murguia, District Judge, Presiding

Submitted October 13, 2009**

Before: B. FLETCHER, LEAVY, and RYMER, Circuit Judges.

Dianne Barker appeals pro se from the district court's order dismissing her employment discrimination action as a discovery sanction under Federal Rule of Civil Procedure 37(b). We have jurisdiction under 28 U.S.C. § 1291. We review

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

for an abuse of discretion, *Rio Props., Inc. v. Rio Intern. Interlink*, 284 F.3d 1007, 1022 (9th Cir. 2002), and we affirm.

The district court did not abuse its discretion by dismissing the action in light of Barker's repeated failure to comply with discovery orders. *See* Fed. R. Civ. P. 37(b)(2)(C); *Rio Props., Inc.*, 284 F.3d at 1022 (discussing five factors court must weigh in determining whether to dismiss a case for failure to comply with a court order).

We do not review the district court's order denying reconsideration because Barker did not file an amended notice of appeal from the denial of that order. *See* Fed. R. App. P. 4(a)(4)(B)(ii).

AFFIRMED.