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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VIRGINIA LEGASPI,

Plaintiff - Appellant,

v.

ST. JOSEPH'S MEDICAL CENTER OF  
STOCKTON; et al.,

Defendants - Appellees.

No. 08-17163

D.C. No. 2:07-cv-00291-FCD-  
GGH

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Frank C. Damrell, Jr., District Judge, Presiding

Submitted March 16, 2010\*\*

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

Virginia Legaspi appeals from the district court's order dismissing her Labor  
Management Relations Act action for failure to prosecute. We have jurisdiction

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

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

under 28 U.S.C. § 1291. We review for an abuse of discretion, *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam), and we affirm.

The district court did not abuse its discretion by dismissing the action where Legaspi's conduct prejudiced defendants' ability to defend the action and the court had already warned Legaspi several times that failure to comply with the court's orders could result in dismissal of her action. *See id.* at 53-54 (outlining factors to consider before dismissing an action for failure to follow a district court's local rules).

Similarly, the district court did not abuse its discretion by denying Legaspi's motion for leave to file an untimely opposition because her failure to prosecute was neither negligent nor excusable. *See Briones v. Riviera Hotel & Casino*, 116 F.3d 379, 381-82 (9th Cir. 1997) (per curiam) (observing that as a general rule "pro se litigants are not excused from following court rules").

Legaspi's remaining contentions are unpersuasive.

**AFFIRMED.**