

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 30 2017

FOR THE NINTH CIRCUIT

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

ENTREPRENEUR MEDIA, INC., a
California corporation,

Plaintiff-Appellee,

v.

D. NICOLE ENTERPRISES, LLC,

Defendant,

and

DUSHAWN THOMAS, an individual,

Defendant-Appellant.

No.14-55473

D.C. No. 8:13-cv-00885-JLS-JPR

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Josephine L. Staton, District Judge, Presiding

Submitted January 18, 2017**

Before: TROTT, TASHIMA, and CALLAHAN, Circuit Judges.

* 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).

DuShawn Thomas appeals pro se from the district court's judgment granting plaintiff Entrepreneur Media, Inc.'s motion for voluntary dismissal of Thomas under Fed. R. Civ. P. 41(a)(2) from its trademark infringement action. We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion.

Westlands Water Dist. v. United States, 100 F.3d 94, 96 (9th Cir. 1996). We affirm.

The district court did not abuse its discretion by granting Entrepreneur Media, Inc.'s motion for voluntary dismissal because Thomas failed to identify any "plain legal prejudice" that she suffered as a result of the dismissal. *See id.* (factors for evaluating motion for voluntary dismissal).

Because we affirm on the basis of plaintiff's motion for voluntary dismissal of Thomas, we do not consider Thomas' contentions concerning the merits of her counterclaims.

We reject as without merit Thomas' contentions that the motion was granted based on Entrepreneur Media, Inc.'s lack of candor.

AFFIRMED.