

FILED

AUG 31 2017

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

IN RE: AMERICAN APPAREL, INC.,
2014 Derivative Shareholder Litigation,

PETER KRAVITZ, as Trustee for and on
behalf of AAI Litigation Trust,

Plaintiff-Appellant,

v.

DOV CHARNEY, *ET AL.*,

Defendants-Appellees.

No. 15-56258

D.C. No. 2:14-cv-05230-MWF

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Michael W. Fitzgerald, District Judge, Presiding

Submitted August 29, 2017**
Pasadena, California

* 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).

Before: WARDLAW and BYBEE, Circuit Judges, and ILLSTON,^{***} District Judge.

Litigation Trustee Peter Kravitz appeals the district court's order of dismissal under Federal Rule of Civil Procedure 41(b) for failure to prosecute or comply with a court order. The district court did not abuse its discretion in dismissing the case under Rule 41(b). *See Yourish v. Cal. Amplifier*, 191 F.3d 983 (9th Cir. 1999); *Ferdik v. Bonzelet*, 963 F.2d 1258 (9th Cir. 1992). On this record, the relevant factors weigh in favor of dismissal and the district court was not required to issue a clear warning or attempt less drastic alternatives before dismissing the action without prejudice.

AFFIRMED.

^{***} The Honorable Susan Illston, United States District Judge for the Northern District of California, sitting by designation.