

DEC 28 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DONALD B. HATTON,

Plaintiff - Appellant,

v.

BANK OF AMERICA,

Defendant - Appellee.

No. 07-15152

D.C. No. CV-06-01888-
GEB/GGH

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, Chief Judge, Presiding

Submitted December 20, 2007**

Before: GOODWIN, WALLACE, and HAWKINS, Circuit Judges.

Donald B. Hatton appeals pro se from the district court's judgment dismissing for failure to follow a court order his action, filed in forma pauperis, alleging that Bank of America recklessly lost a bank account in which he had

* 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).

deposited \$24 trillion. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a district court’s dismissal for failure to follow a court order. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). We affirm.

The district court did not abuse its discretion by dismissing Hatton’s action for failure to follow a court order where the district court described the inadequacies of Hatton’s complaint, including his failure to allege the existence of subject matter jurisdiction, and warned him that failure to file an amended complaint would result in dismissal. *See id.* at 1260-62; *Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1065 (9th Cir. 2004) (“The failure of the plaintiff eventually to respond to the court’s ultimatum – either by amending the complaint or by indicating to the court that [he] will not do so – is properly met with the sanction of a Rule 41(b) dismissal.”).

Hatton’s “motion to alter” is denied as moot.

AFFIRMED.