



1 In his September 19, 2011 Order to Show Cause (Doc. 5) Judge Anderson forewarned  
2 Plaintiff that, pursuant to Federal Rule of Civil Procedure 41(b) and *Ferdik v. Bonzelet*, 963  
3 F.2d 1258, 1260 (9th Cir. 1992), trial courts have the inherent power to control their dockets  
4 and, in the exercise of that power, may impose sanctions including, where appropriate,  
5 dismissal of a case with or without prejudice. *See also Flaksa v. Little River Marine Constr.*  
6 *Co.*, 389 F.2d 885, 887, 887 (5th Cir. 1968) (cases omitted); *Chambers v. NASCO, Inc.*, 501  
7 U.S. 32, 44-45 (1991) (district court may “fashion appropriate sanction for conduct”  
8 including “outright dismissal.”). “The threat of sanctions promotes compliance with a court’s  
9 orders even if the sanctions threatened are never imposed.” *Green v. Lisa Frank, Inc.*, 221  
10 Ariz. 138, 152, 211 P.3d 16, 30 (Az. Ct. App. 2009) (concluding the trial court did not abuse  
11 its discretion in striking plaintiff’s reply, dismissing his cross-claim, and entering judgment  
12 in favor of defendant) (collecting federal and state cases of dismissals for failure to comply  
13 with court orders).

14 A district court’s inherent authority to sanction parties for failing to comply with its  
15 orders exists, in part, to prevent “disobedience [of] the orders of the Judiciary, regardless of  
16 whether such disobedience interfered with the conduct of trial.” *Chambers*, 501 U.S. at 44  
17 (quoting *Young v. United States ex rel. Vuitton et Fils, S.A.*, 481 U.S. 787, 798 (1987))  
18 (internal quotation marks omitted). “Dismissal of the complaint for failure to comply with  
19 the rules [is] within the court’s discretion.” *Sergio Bautista et al. v. L.A. Cnty.*, 216 F.3rd 837,  
20 841 (9th Cir. 2000) (citing *Original Ballet Russe, Ltd. v. Ballet Theatre, Inc.*, 133 F.2d 187,  
21 188 (2nd Cir. 1943)); *Anheuser-Busch, Inc. v. Natural Beverage Distribs.*, 69 F.3d 337, 348  
22 (9th Cir. 1995) (The public interest “in expeditious resolution of litigation,” a court’s need  
23 to manage docket, risk of prejudice to party seeking sanctions, public policy favoring  
24 disposition on the merits, availability of lesser sanctions, bad faith of violating party,  
25 relationship between conduct and merits justify sanction); *Poulis v. State Farm Fire & Cas.*  
26 *Co.*, 747 F.2d 863, 868 (3d Cir. 1984) (personal responsibility of party, prejudice to other  
27 party, history of dilatory conduct, willfulness or bad faith, other sanctions, merits of claim  
28 or defense).

1           The Civil Justice Reform Act of 1990 (“CJRA”), 28 U.S.C. § 471 *et seq.*, mandates  
2 the early and ongoing judicial management of the pretrial process. Under the CJRA mandate,  
3 “[f]ederal trial courts are now required, by statute, to implement techniques and strategies  
4 designed to dispose of cases in an efficient and inexpensive manner.” *Schwarzkopf Techs.*  
5 *Corp. v. Ingersoll Cutting Tool Co.*, 142 F.R.D. 420, 423 (D. Del. 1992). Additionally,  
6 federal judges “are subject to the injunction of Rule 1 [Federal Rules of Civil Procedure] that  
7 [the Rules] ‘be construed to secure the just, *speedy* and *inexpensive* determination of every  
8 action.’” *Herbert v. Lando*, 441 U.S. 153, 177 (1979) (emphasis in original). Plaintiff’s  
9 failures to timely comply with Judge Anderson’s September 7th and 19th, 2011 orders are  
10 frustrating the speedy and inexpensive resolution of this case.

11           In determining whether to dismiss a case for failure to comply with court orders,  
12 district courts weigh five factors: (1) the public interest; (2) the court’s need to manage the  
13 docket; (3) the risk of prejudice to the defendant; (4) the public policy favoring disposition  
14 of cases on their merits; and (5) the availability of less drastic alternatives. *Ferdik*, 963 F.2d  
15 at 1260-61. Plaintiff’s failures to comply with court orders are frustrating the Court’s  
16 responsibilities mandated by Federal Rule of Civil Procedure 1 and the Civil Justice Reform  
17 Act of 1990, 28 U.S.C. § 471 *et seq.*, such as, “setting early, firm trial dates, such that the  
18 trial is scheduled to occur to occur *within eighteen months* after the filing of the complaint.  
19 . . .” 28 U.S.C. § 473(a)(2) (emphasis added). Plaintiff’s *pro se* status does not discharge her  
20 obligation to “abide by the rules of the court in which [they] litigate[.]” *Carter v. Comm’r*  
21 *of Internal Revenue*, 784 F.2d 1006, 1008 (9th Cir. 1986).

22           After considering the adequacy of lesser sanctions, that Plaintiff has been forewarned  
23 that sanctions may be imposed, and weighing all five *Ferdik* factors to determine if dismissal  
24 is appropriate due to Plaintiff’s failure to comply with prior court orders, the Court concludes  
25 that dismissal of Plaintiff’s Complaint without prejudice is appropriate and just under the  
26 circumstances of this case.

27           Pursuant to General Order 11-3 (Dismissal of a Civil Case Assigned to a United States  
28 Magistrate Judge Absent Voluntary Consent by the Parties Under 28 U.S.C. § 636(c)(1)),

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IT IS ORDERED DISMISSING** Plaintiff's Complaint without prejudice. The Clerk is kindly directed to terminate this case.

DATED this 13<sup>th</sup> day of October, 2011.

  
\_\_\_\_\_  
Stephen M. McNamee  
United States District Judge