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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

MARIA HERNANDEZ, et al.,

CASE NO. CV F 05-0115 LJO GSA

Plaintiffs,

**ORDER TO DISMISS FOR DISOBEDIENCE
OF ORDERS**

vs.

(Docs. 7, 18, 19.)

MITCHELL ROBINSON,

Defendants.

BACKGROUND

This Court's May 26, 2005 order requires status reports every 120 days during stay of this action. Plaintiffs last filed a June 30, 2008 status report.

In the absence of timely status reports, this Court's December 12, 2008 order ("December 12 order") required plaintiffs, no later than December 22, 2008, to file a status report. The December 12 order stated: "**This Court ADMONISHES plaintiffs that failure to comply with this order will result in sanctions, including dismissal of this action.**" (Bold in original.) Plaintiffs failed to respond to the December 12 order.

This Court's December 23, 2008 order to show cause ("OSC") required plaintiffs, no later than January 5, 2009, to show cause in writing why this Court should not impose sanctions, including dismissal of this action, for failure to comply with the December 12 order and to file timely status reports. The OSC stated: "**This Court ADMONISHES plaintiffs that failure to comply with this order will result in sanctions, including dismissal of this action.**" (Bold in original.) Plaintiffs failed to respond to the OSC.

1 **DISCUSSION**

2 **Failure To Comply With Orders**

3 This Court’s Local Rule 11-110 provides that “. . . failure of counsel or of a party to comply with
4 these Local Rules or with any order of the Court may be grounds for the imposition by the Court of any
5 and all sanctions . . . within the inherent power of the Court.” District courts have inherent power to
6 control their dockets and “in the exercise of that power, they may impose sanctions including, where
7 appropriate . . . dismissal of a case.” *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986).
8 A court may dismiss an action, with prejudice, based on a party’s failure to obey a court order or local
9 rules. *See, e.g., Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with
10 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply
11 with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.
12 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised
13 of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to
14 comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack
15 of prosecution and failure to comply with local rules).

16 In determining whether to dismiss an action for failure to comply with a court order or local rules
17 or for lack of prosecution, a court must consider several factors: (1) the public’s interest in expeditious
18 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to defendant;
19 (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic
20 alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
21 *Ferdik*, 963 F.2d at 1260-1261; *Ghazali*, 46 F.3d at 53.

22 In this case, the public’s interest in expeditiously resolving this litigation and the Court’s interest
23 in managing the docket weigh in favor of dismissal as plaintiffs indicate a lack of interest to further
24 litigate or prosecute this action. The third factor -- risk of prejudice to defendant -- also weighs in favor
25 of dismissal, since a presumption of injury arises from the occurrence of unreasonable delay in
26 prosecuting an action. *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor --
27 public policy favoring disposition of cases on their merits -- is greatly outweighed by the factors in favor
28 of dismissal discussed herein. Finally, a court’s warning to a party that its failure to obey the court’s

