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

PHILLIP JON ROSENBLUM,	)	1:05-cv-01473- LJO- GSA PC
	)	
Plaintiff,	)	FINDINGS AND
	)	RECOMMENDATIONS THAT THIS
v.	)	ACTION BE DISMISSED FOR
	)	PLAINTIFF’S FAILURE TO
C/O ELLIS, et al.,	)	PROSECUTE
	)	
Defendants.	)	OBJECTIONS DUE IN THIRTY
	)	DAYS

Plaintiff is a state prisoner proceeding pro se in this civil rights action. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 31, 2008, an order was entered, finding that the complaint stated a claim against Defendant Ellis, but failed to state any claims against any other of the named defendants. Plaintiff was granted leave to file an amended complaint to correct the deficiencies that the order identified. Despite an extension of time, Plaintiff did not file an amended complaint. On September 22, 2008, Plaintiff filed a notice and request to proceed on the claims found to be cognizable. Plaintiff specifically indicated that he “wishes to proceed only on the claims identified by the court, as being unto C.O. Ellis.”



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

13 In determining whether to dismiss an action for lack of prosecution, failure to obey a  
14 court order, or failure to comply with local rules, the court must consider several factors: (1) the  
15 public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket;  
16 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on  
17 their merits; and (5) the availability of less drastic alternatives. Thompson, 782 F.2d at 831;  
18 Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali,  
19 46 F.3d at 53.

20 Here, the Court finds that the public’s interest in expeditiously resolving this litigation  
21 and the court’s interest in managing the docket weigh in favor of dismissal. The third factor, risk  
22 of prejudice to defendants, also weighs in favor of dismissal, since a presumption of injury arises  
23 from the occurrence of unreasonable delay in prosecuting an action. Anderson v. Air West, 542  
24 F.2d 522, 524 (9<sup>th</sup> Cir. 1976). The fourth factor -- public policy favoring disposition of cases on  
25 their merits -- is greatly outweighed by the factors in favor of dismissal discussed herein. Finally,  
26 a court’s warning to a party that his failure to obey the court’s order will result in dismissal

