

1 Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); Ferdik v.
2 Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order
3 requiring amendment of complaint); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
4 (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of
5 address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to
6 comply with court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for
7 failure to lack of prosecution and failure to comply with local rules). In determining whether to
8 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local
9 rules, the Court must consider several factors: (1) the public's interest in expeditious resolution of
10 litigation; (2) the Court's need to manage its docket; (3) the risk of prejudice to the defendants; (4)
11 the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic
12 alternatives. Thompson, 782 F.2d at 831; Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at 130;
13 Ferdik, 963 F.2d at 1260-61; Ghazali, 46 F.3d at 53.

14 In the instant case, the Court finds that the public's interest in expeditiously resolving this
15 litigation and the Court's interest in managing the docket weigh in favor of dismissal, as this case
16 has been pending since May 23, 2007. The third factor, risk of prejudice to defendants, also weighs
17 in favor of dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
18 in prosecuting an action. Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
19 factor -- public policy favoring disposition of cases on their merits -- is greatly outweighed by the
20 factors in favor of dismissal discussed herein. Finally, a court's warning to a party that his failure
21 to obey the court's order will result in dismissal satisfies the "consideration of alternatives"
22 requirement. Ferdik v. Bonzelet, 963 F.2d at 1262; Malone, 833 at 132-33; Henderson, 779 F.2d
23 at 1424. The Court's order expressly stated: "If Plaintiff fails to comply with this order, the Court
24 will dismiss this action for failure to obey a court order." Thus, Plaintiff had adequate warning that
25 dismissal would result from his noncompliance with the Court's order.

26 Accordingly, it is HEREBY RECOMMENDED that this action be dismissed, without
27 prejudice, based on Plaintiff's failure to obey the Court's order of February 24, 2009.

28 These Findings and Recommendations are submitted to the United States District Judge

1 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fifteen (15)**
2 **days** after being served with these Findings and Recommendations, Plaintiff may file written
3 objections with the Court. Such a document should be captioned “Objections to Magistrate Judge’s
4 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the
5 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d
6 1153 (9th Cir. 1991).

7
8 IT IS SO ORDERED.

9 **Dated: July 20, 2009**

/s/ Dennis L. Beck
10 UNITED STATES MAGISTRATE JUDGE