



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

15 In determining whether to dismiss an action for lack of prosecution, failure to obey a court  
16 order, or failure to comply with local rules, the court must consider several factors: (1) the public’s  
17 interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk  
18 of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and  
19 (5) the availability of less drastic alternatives. Thompson, 782 F.2d at 831; Henderson, 779 F.2d at  
20 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali, 46 F.3d at 53.

21 In the instant case, the court finds that the public’s interest in expeditiously resolving this  
22 litigation and the court’s interest in managing the docket weigh in favor of dismissal, as this case has  
23 been pending since March 19, 2008. The third factor, risk of prejudice to defendants, also weighs  
24 in favor of dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
25 in prosecuting an action. Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth  
26 factor -- public policy favoring disposition of cases on their merits -- is greatly outweighed by the  
27 factors in favor of dismissal discussed herein. Finally, a court’s warning to a party that his failure  
28 to obey the court’s order will result in dismissal satisfies the “consideration of alternatives”

1 requirement. Ferdik v. Bonzelet, 963 F.2d at 1262; Malone, 833 at 132-33; Henderson, 779 F.2d  
2 at 1424. The court's order requiring plaintiff to file an amended complaint expressly stated: "If  
3 Plaintiff fails to file an amended complaint, the Court will recommend that this action be dismissed,  
4 with prejudice, for failure to state a claim." Thus, plaintiff had adequate warning that dismissal  
5 would result from his noncompliance with the court's order.

6 Accordingly, it is HEREBY RECOMMENDED that this action be dismissed, with prejudice,  
7 for failure to obey a court order and failure to state a claim upon which relief may be granted.

8 These Findings and Recommendations are submitted to the United States District Judge  
9 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **twenty (20)**  
10 **days** after being served with these Findings and Recommendations, plaintiff may file written  
11 objections with the court. Such a document should be captioned "Objections to Magistrate Judge's  
12 Findings and Recommendations." Plaintiff is advised that failure to file objections within the  
13 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d  
14 1153 (9th Cir. 1991).

15  
16 IT IS SO ORDERED.

17 **Dated: February 9, 2009**

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE