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

MARIA DEL CARMEN LOPEZ, et al.,

CASE NO. CV F 09-0449 LJO GSA

Plaintiffs,

**ORDER TO DISMISS FOR DISOBEDIENCE  
OF ORDER**

vs.

(Docs. 14.)

CHASE HOME FINANCIAL, et al.,

Defendants.

**BACKGROUND**

This Court's April 9, 2009 order ("April 9 order") dismissed defendants Chase Home Financial LLC and Mortgage Electronic Registration Systems, Inc. and required plaintiff Maria Del Carmen Lopez ("Ms. Lopez"), no later than April 16, 2009, to show cause in writing why this Court should not dismiss this action against defendants Wilmington Finance, Inc. and AIG Federal Savings Bank. The April 9 order "**ADMONISHES Ms. Lopez and her counsel that this Court will dismiss this action against defendants Wilmington Finance, Inc. and AIG Federal Savings Bank if Ms. Lopez' counsel fails to comply with this order.**" (Bold in original.) Ms. Lopez has failed to show cause in writing why this Court should not dismiss defendants Wilmington Finance, Inc. and AIG Federal Savings Bank to disobey the April 9 order.

**DISCUSSION**

**Failure To Comply With Orders**

This Court's Local Rule 11-110 provides that "... failure of counsel or of a party to comply with these Local Rules or with any order of the Court may be grounds for the imposition by the Court of any

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

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

18 In this case, the public’s interest in expeditiously resolving this litigation and the Court’s interest  
19 in managing the docket weigh in favor of dismissal as Ms. Lopez indicates a lack of interest to further  
20 litigate or prosecute this action. The third factor -- risk of prejudice to defendant -- also weighs in favor  
21 of dismissal, since a presumption of injury arises from the occurrence of unreasonable delay in  
22 prosecuting an action. *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor --  
23 public policy favoring disposition of cases on their merits -- is greatly outweighed by the factors in favor  
24 of dismissal discussed herein. Finally, a court’s warning to a party that its failure to obey the court’s  
25 order will result in dismissal satisfies the “consideration of alternatives” requirement. *Ferdik*, 963 F.2d  
26 at 1262; *Malone*, 833 F.2d at 132-133; *Henderson*, 779 F.2d at 1424. The April 9 order  
27 **“ADMONISHES Ms. Lopez and her counsel that this Court will dismiss this action against**  
28 **defendants Wilmington Finance, Inc. and AIG Federal Savings Bank if Ms. Lopez’ counsel fails**

1 **to comply with this order.”** (Bold in original.) Ms. Lopez ignored the April 9 order and received  
2 adequate warning that dismissal will result from disobedience of this Court’s orders and failure to  
3 prosecute this action. Quite simply, Ms. Lopez has failed to comply with this Court’s order and to  
4 meaningfully and intelligently respond.

5 **CONCLUSION AND ORDER**

6 For the reasons discussed above, this Court DISMISSES without prejudice this action against  
7 defendants Wilmington Finance, Inc. and AIG Federal Savings Bank.

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9 IT IS SO ORDERED.

10 **Dated:** April 17, 2009

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE

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