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2 **I. DISCUSSION**

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

18 In determining whether to dismiss an action for lack of prosecution, failure to obey a
19 court order, or failure to comply with local rules, the court must consider several factors: (1)
20 the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its
21 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
22 cases on their merits; and (5) the availability of less drastic alternatives. Ghazali, 46 F.3d at
23 53; Ferdik, 963 F.2d at 1260-61; Malone, 833 F.2d at 130; Thompson, 782 F.2d at 831;
24 Henderson, 779 F.2d at 1423-24.

25 In the instant case, the Court finds that the public’s interest in expeditiously resolving
26 this litigation and the Court’s interest in managing the docket weigh in favor of dismissal
27 because this case has been pending in this Court since May 14, 2009. The third factor, risk
28 of prejudice to defendants, also weighs in favor of dismissal because a presumption of injury

1 arises from any unreasonable delay in prosecuting an action. Anderson v. Air West, 542 F.2d
2 522, 524 (9th Cir. 1976). The fourth factor, public policy favoring disposition of cases on their
3 merits, is greatly outweighed by the factors in favor of dismissal. Finally, a court's warning to
4 a party that his failure to obey the court's order will result in dismissal satisfies the
5 "consideration of alternatives" requirement. Ferdik, 963 F.2d at 1262; Malone, 833 F.2d at
6 132-33; Henderson, 779 F.2d at 1424. The Court's order for Petitioner to show that he had
7 exhausted his state remedies stated that dismissal would result from non-compliance with the
8 Court's order.

9 **II. RECOMMENDATION**

10 Accordingly, the Court HEREBY RECOMMENDS that this action be DISMISSED for
11 Petitioner's failure to comply with a court order.

12 This Findings and Recommendation is submitted to the Honorable Oliver W. Wanger,
13 United States District Court Judge, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and
14 Rule 304 of the Local Rules of Practice for the United States District Court, Eastern District
15 of California. Within thirty (30) days after service of the Findings and Recommendation, any
16 party may file written objections with the court and serve a copy on all parties. Such a
17 document should be captioned "Objections to Magistrate Judge's Findings and
18 Recommendation." Replies to the objections shall be served and filed within fourteen (14)
19 days after service of the objections. The Court will then review the Magistrate Judge's ruling
20 pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to file objections
21 within the specified time may waive the right to appeal the District Court's order. Martinez v.
22 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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25 IT IS SO ORDERED.

26 Dated: July 16, 2010

1st Michael J. Seng
UNITED STATES MAGISTRATE JUDGE