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

LINDA BURNS,
Plaintiff,
vs.
JEFFREY R. LEVIN, MD.,
Defendant.

) 1:09-cv-1362 AWI GSA
)
)
) FINDINGS AND RECOMMENDATION
) TO DISMISS CASE FOR FAILURE TO
) OBEY A COURT ORDER
)
) OBJECTIONS, IF ANY, DUE IN THIRTY
) DAYS
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On August 31, 2009, the court issued an order dismissing Plaintiff's complaint with leave to amend. The order directed that Plaintiff file an amended complaint within thirty (30) days. (Doc. 6). On October 1, 2009, instead of filing an amended complaint, Plaintiff filed a Motion to Change Venue. (Doc. 8). On October 13, 2009, the Court denied Plaintiff's motion and granted Plaintiff an additional twenty (20) days to file an amended Complaint. (Doc. 9). The twenty day (20) period has now expired, and plaintiff has not filed an amended complaint or otherwise responded to the court's order.

Local Rule 11-110 provides that "failure of counsel or of a party to comply with these

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

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

22 In the instant case, the court finds that the public’s interest in expeditiously resolving this
23 litigation and the court’s interest in managing the docket weigh in favor of dismissal. The third
24 factor, risk of prejudice to defendants, also weighs in favor of dismissal, since a presumption of
25 injury arises from the occurrence of unreasonable delay in prosecuting an action. Anderson v.
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