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6 **IN THE UNITED STATES DISTRICT COURT FOR THE**  
7 **EASTERN DISTRICT OF CALIFORNIA**  
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9 1:09-cv-01467-AWI-BAM

10 DEANNA RANGEL,

11 Plaintiff,

12 v.

**ORDER REQUIRING THE  
PARTIES TO SHOW CAUSE WHY  
SANCTIONS SHOULD NOT BE  
IMPOSED**

13 AMERICAN MEDICAL RESPONSE  
14 WEST, JOSE MARTINEZ, and  
15 TRACY J. FISHER

16 Defendants.  
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17 **I. BACKGROUND**

18 The Court refers the parties to previous orders for a complete chronology of the  
19 proceedings.

20 On March 7, 2014, this Court issued an order vacating the May 6, 2014 trial date  
21 previously scheduled in this case due to a calendar conflict resulting from this case being  
22 scheduled for trial at the same time as a criminal case and other civil cases. This Court informed  
23 the parties of the enormous caseload that the Fresno Division of the Eastern District of California  
24 possesses. The Court then provided the standard consent form -- permitting the parties to either  
25 consent or decline to consent to the jurisdiction of a United States Magistrate Judge -- and  
26 ordered the parties to notify the Court within ten (10) days of their decision by filling the  
27 enclosed forms and returning them to the Court. The parties failed to do so by March 17, 2014.  
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1 On March 21, 2014, the Court informally contacted Plaintiff’s counsel in an effort to  
2 ensure compliance with the Court’s March 7, 2014 order. Plaintiff’s counsel indicated that he  
3 would file the requisite form to indicate his intention not to consent to the jurisdiction of a  
4 United States Magistrate Judge. As of this date no response has be received from either party.

## 5 II. DISCUSSION

6 The parties have failed to comply with this Court’s order dated March 7, 2013.

7 Federal Rule of Civil Procedure 41(b), in relevant part, provides, “If a plaintiff fails to ...  
8 comply with these rules or a court order, a defendant may move to dismiss the action or any  
9 claim against it.” Fed. R. Civ. Pro. 41(b). Although the language of the Rule indicates that Rule  
10 41(b) is applicable upon motion by the defendant, “courts may dismiss under Rule 41(b) *sua*  
11 *sponte*, at least in some circumstances.” Hells Canyon Preservation Council v. United States  
12 Forest Service, 403 F.3d 683, 689 (9th Cir. 2005) (citing Olsen v. Maples, 333 F.3d 1199, 1204  
13 n.3 (10th Cir. 2003)).

14 Local Rule 110, corresponding with Fed.R.Civ.P. 11, provides that “a failure of counsel  
15 or of a party to comply with these Local Rules or with any order of the Court may be grounds for  
16 the imposition by the Court of any and all sanctions . . . within the inherent power of the Court.”  
17 “District courts have the inherent power to control their dockets and in the exercise of that power  
18 they may impose sanctions including, where appropriate, dismissal of a case.” Bautista v. Los  
19 Angeles County, 216 F.3d 837, 841 (9th Cir. 2000); Ferdik v. Bonzelet, 963 F.2d 1258, 1260  
20 (9th Cir. 1992); Thompson v. Housing Authority of Los Angeles, 782 F.2d 829, 831 (9th Cir.  
21 1986).

22 A court may dismiss an action with prejudice based on a party’s failure to obey a court  
23 order. See, e.g., Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)(dismissal for  
24 noncompliance with Local Rule); Ferdik, 963 F.2d at 1260-61 (dismissal for failure to comply  
25 with court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack  
26 of prosecution and failure to comply with Local Rules). In determining whether to dismiss an  
27 action for failure to obey a court order the court must consider several factors, including: (1) the  
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1 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;  
2 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on  
3 their merits; and (5) the availability of less drastic alternatives. Pagtalunan v. Galaza, 291 F.3d  
4 639, 642-43 (9th Cir. 2002); Bautista, 216 F.3d at 841; In re Eisen, 31 F.3d at 1451; Ferdik, 963  
5 F.2d at 1260-61; Henderson, 779 F.2d at 1424; Thompson, 782 F.2d at 831.

6 In the case at hand, the public's interest is in resolving this litigation. See Yourish v.  
7 California Amplifier, 191 F.3d 983, 990 (9th Cir.1999) (“The public's interest in expeditious  
8 resolution of litigation always favors dismissal”). Similarly, the Court's has an interest in  
9 managing its docket, given that the Eastern District of California is one of the busiest federal  
10 jurisdictions in the United States and its District Judges carry some of the heaviest caseloads in  
11 the nation. Because the parties have failed to comply with the Court’s order, the Court's interest  
12 in managing its docket weighs in favor of sanctions. See Ferdik, 963 F.2d at 1261 (recognizing  
13 that district courts have inherent interest in managing their dockets without being subject to  
14 noncompliant litigants).

15 A warning by a district court satisfies the requirement that the Court consider less drastic  
16 measures. Ferdik, 963 F.2d at 1262; Henderson, 779 F.2d 1421, 1424 (9th Cir. 1986). The Court  
17 has not yet warned the parties of the consequences of their failure to comply with its orders. This  
18 Court now warns the parties that continued failure to comply with its orders will result in  
19 monetary sanctions or dismissal.

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1 **III. ORDER**

2 Accordingly, the parties are hereby ORDERED to SHOW CAUSE in writing by April 2,  
3 2014 by 10:00 a.m., why this Court should not impose sanctions due to the parties' failure to  
4 comply with this Court's order dated March 7, 2014.

5 In any event, the parties are ORDERED to notify the Court of their decision as to  
6 whether they will consent to the jurisdiction of a United States Magistrate Judge by filling and  
7 submitting the consent form by April 2, 2014.

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9 IT IS SO ORDERED.

10 Dated: March 26, 2014

  
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12 SENIOR DISTRICT JUDGE  
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