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3
4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF CALIFORNIA
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7
8 DAVID E. JENSEN,

1:09-cv-01789-OWW-DLB

9 Plaintiff,

ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS (Doc. 29)

10
11 v.

12 JPMORGAN CHASE BANK, N.A., et
13 al.,

14 Defendants.

15 I. INTRODUCTION.

16 Plaintiff David E. Jensen ("Plaintiff") is proceeding with an
17 action under the Real Estate Settlement Procedures Act ("RESPA").
18 12 U.S.C. § 2601 *et seq.* Plaintiffs first amended complaint
19 alleged claims for: (1) declaratory relief; (2) fraud; (3)
20 violation of RESPA; (4) reformation; (5) "to quiet title and set
21 aside foreclosure"; (5) violation of California's Unfair
22 Competition Law, Business & Professions Code § 17200; (6) violation
23 of California's Rosenthal Fair Debt Collection Practices Act
24 ("RFDCPA"); (6) violation of California Civil Code § 1572; (7) and
25 "injunctive relief."

26 On April 20, 2010, the court granted Defendant's motion to
27 dismiss each of Plaintiff's claims, but provided Plaintiff an
28

1 opportunity to remedy many of the complaint's deficiencies by
2 filing an amended complaint. (Doc. 26). Plaintiff was ordered to
3 submit an amended complaint within thirty days of electronic
4 service of the court's order. (Doc 26). Plaintiff failed to file
5 an amended complaint. Defendants filed a second motion to
6 dismiss Plaintiff's action on May 3, 2010. (Doc. 29). Plaintiff
7 failed to file opposition to Defendant's motion.

8 **II. DISCUSSION.**

9 Local Rule 110 provides that "failure of counsel or of a
10 party to comply with these Local Rules or with any order of the
11 Court may be grounds for the imposition by the Court of any and
12 all sanctions . . . within the inherent power of the Court."
13 E.D. Cal. R. 110 (2010). District courts have the inherent power
14 to control their dockets and "in the exercise of that power, they
15 may impose sanctions including, where appropriate . . . dismissal
16 of a case." *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th
17 Cir. 1986). A court may dismiss an action, with prejudice, based
18 on a party's failure to prosecute an action, failure to obey a
19 court order, or failure to comply with local rules. *See, e.g.,*
20 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
21 (dismissal for failure to comply with an order requiring
22 amendment of complaint). In determining whether to dismiss an
23 action for lack of prosecution, failure to obey a court order, or
24 failure to comply with local rules, the Court must consider
25 several factors: (1) the public's interest in expeditious
26 resolution of litigation; (2) the Court's need to manage its
27 docket; (3) the risk of prejudice to the defendants; (4) the
28 public policy favoring disposition of cases on their merits; and

1 (5) the availability of less drastic alternatives. *Thompson*, 782
2 F.2d at 831. After weighing the relevant factors, the court
3 concludes that dismissal of Plaintiff's action with prejudice is
4 warranted in light of Plaintiff's failure to obey the court's
5 orders and failure to prosecute this action.

6 **ORDER**

7 For the reasons stated, IT IS ORDERED that:

- 8 1) Plaintiff's action is DISMISSED, with prejudice; and
9 2) The Clerk of the Court is DIRECTED to enter judgment for
10 Defendants.

11 IT IS SO ORDERED.

12 **Dated: July 16, 2010**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE