

1 For the reasons discussed below, the Court recommends that this action be dismissed for
2 failure to follow a Court order and failure to prosecute this matter.

3 DISCUSSION

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

16 In determining whether to dismiss an action for lack of prosecution, failure to obey a
17 court order, or failure to comply with local rules, the court must consider several factors: (1) the
18 public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket;
19 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
20 their merits; and (5) the availability of less drastic alternatives. [Thompson, 782 F.2d at 831](#);
21 [Henderson, 779 F.2d at 1423-24](#); [Malone, 833 F.2d at 130](#); [Ferdik, 963 F.2d at 1260-61](#); [Ghazali, 46 F.3d at 53](#).
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23 In the instant case, the Court finds that the public’s interest in expeditiously resolving this
24 litigation and the Court’s interest in managing the docket weigh in favor of dismissal. This case
25 has been pending since May 24, 2010. Plaintiff has been given an opportunity either to correct
26 the deficiencies in his complaint or to proceed on the claims that the Court found cognizable.
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1 However, Plaintiff has made no effort to respond to the Court. The third factor, risk of prejudice
2 to defendants, also weighs in favor of dismissal, since a presumption of injury arises from the
3 occurrence of unreasonable delay in prosecuting an action. [Anderson v. Air West, Inc., 542 F.2d](#)
4 [522, 524 \(9th Cir. 1976\)](#). The fourth factor -- public policy favoring disposition of cases on their
5 merits -- is greatly outweighed by the factors in favor of dismissal discussed herein. Finally, a
6 court's warning to a party that his failure to obey the court's order will result in dismissal
7 satisfies the "consideration of alternatives" requirement. [Ferdik, 963 F.2d at 1262](#); [Malone](#), 833
8 at 132-33; [Henderson, 779 F.2d at 1424](#). The Court's December 8, 2010, order requiring
9 Plaintiff to file a response or an amended complaint expressly stated: "If Plaintiff fails to comply
10 with this order, this action will be dismissed for failure to state a claim upon which relief may be
11 granted." Thus, Plaintiff had adequate warning that dismissal would result from his
12 noncompliance with the Court's order.

13 **RECOMMENDATION**

14 Accordingly, the Court HEREBY RECOMMENDS that this action be DISMISSED for
15 failure to follow a court order and failure to prosecute this action.

16 These findings and recommendations will be submitted to the Honorable Anthony W.
17 Ishii, pursuant to the provisions of [Title 28 U.S.C. § 636\(b\)\(1\)](#). Within **thirty (30) days** after
18 being served with these Findings and Recommendations, Plaintiff may file written objections
19 with the Court. The document should be captioned "Objections to Magistrate Judge's Findings
20 and Recommendations." Plaintiff is advised that failure to file objections within the specified
21 time may waive the right to appeal the District Court's order. [Martinez v. Ylst, 951 F.2d 1153](#)
22 [\(9th Cir. 1991\)](#).

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24 IT IS SO ORDERED.

25 **Dated: January 20, 2011**

/s/ Dennis L. Beck
26 UNITED STATES MAGISTRATE JUDGE