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8	UNITED STATES DISTRICT COURT	
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10	EASTERN DISTRICT OF CALIFORNIA	
11	PHILLIS A. TAYLOR,	CASE NO. 1:11-cv-00199-LJO-SKO
12	Plaintiff,	FINDINGS AND
13	V.	RECOMMENDATIONS THAT PLAINTIFF'S COMPLAINT BE
14	DISMISSED CENTRAL MORTGAGE COMPANY,	
15	Defendant.	<b>OBJECTIONS DUE: 20 DAYS</b>
16	Derendant.	OBJECTIONS DUE: 20 DAYS
17	/	
18	I. INTRODUCTION	
19	On February 4, 2011, Plaintiff Phyllis A. Taylor ("Plaintiff") filed a complaint against	
20	Defendant Central Mortgage Company ("Defendant") "to produce original Promissory Note signed	
21	by Plaintiff on April 25, 2006." (Doc. 2.) On February 11, 2011, the Court dismissed Plaintiff's	
22	complaint and granted 30 days leave to amend. (Doc. 6.) Plaintiff failed to file an amended	
23	complaint.	
24	II. DISCUSSION	
25	Local Rule 110 provides that "[f]ailure of counsel or of a party to comply with these Rules	
26	or with any order of the Court may be grounds for the imposition by the Court of any and all	
27	sanctions within the inherent power of the Court." District courts have the inherent power to	
28	control their dockets and "[i]n the exercise of that power they may impose sanctions, including,	

where appropriate ... dismissal." Thompson v. Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986). 1 2 A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, 3 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, 4 5 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for 6 7 failure to comply with local rule requiring pro se plaintiff to keep court apprised of address); Malone 8 v. U.S. Postal Service, 833 F.2d 128, 130-31 (9th Cir. 1987) (dismissal for failure to comply with 9 court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to lack 10 of prosecution and failure to comply with local rules).

In determining whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the court must consider several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831; *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.

17 In the instant case, the Court finds that the public's interest in expeditiously resolving this litigation and the Court's interest in managing the docket weigh in favor of dismissal. The third 18 19 factor, risk of prejudice to defendants, also weighs in favor of dismissal, since a presumption of 20 injury arises from the occurrence of unreasonable delay in prosecuting an action. Anderson v. Air 21 West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy favoring disposition of 22 cases on their merits – is greatly outweighed by the factors in favor of dismissal discussed herein. 23 Finally, a court's warning to a party that his failure to obey the court's order will result in dismissal satisfies the "consideration of alternatives" requirement. Ferdik, 963 F.2d at 1262; Malone, 833 F.2d 24 25 at 132-33; Henderson, 779 F.2d at 1424. The Court's February 11, 2011, order expressly stated that failure to amend the complaint would result in a recommendation of dismissal. (Doc. 6.) Thus, 26 27 Plaintiff had adequate warning that dismissal would result from her noncompliance with the Court's 28 order.

## **III. CONCLUSION AND RECOMMENDATION**

Accordingly, the Court HEREBY RECOMMENDS that the Complaint be DISMISSED pursuant to Local Rule 110, for Plaintiff's failure to obey the Court's order of February 11, 2011.

These findings and recommendations are submitted to the district judge assigned to this action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 304. Within twenty (20) days of service of this recommendation, any party may file written objections to these findings and recommendations with the Court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." The district judge will review the magistrate judge's findings and recommendations pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to file objections within the specified time may waive the right to appeal the district judge's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

13 IT IS SO ORDERED.

14 Dated: April 4, 2011

## /s/ Sheila K. Oberto UNITED STATES MAGISTRATE JUDGE