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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PHILLIS A. TAYLOR,

Plaintiff,

v.

CENTRAL MORTGAGE COMPANY,

Defendant.

CASE NO. 1:11-cv-00199-LJO-SKO

**FINDINGS AND
RECOMMENDATIONS THAT
PLAINTIFF'S COMPLAINT BE
DISMISSED**

OBJECTIONS DUE: 20 DAYS

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I. INTRODUCTION

On February 4, 2011, Plaintiff Phyllis A. Taylor ("Plaintiff") filed a complaint against Defendant Central Mortgage Company ("Defendant") "to produce original Promissory Note signed by Plaintiff on April 25, 2006." (Doc. 2.) On February 11, 2011, the Court dismissed Plaintiff's complaint and granted 30 days leave to amend. (Doc. 6.) Plaintiff failed to file an amended complaint.

II. DISCUSSION

Local Rule 110 provides that "[f]ailure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for the imposition by the Court of any and all sanctions . . . within the inherent power of the Court." District courts have the inherent power to control their dockets and "[i]n the exercise of that power they may impose sanctions, including,

1 where appropriate . . . dismissal." *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986).
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*,
4 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*,
5 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring
6 amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for
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).

11 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
12 order, or failure to comply with local rules, the court must consider several factors: (1) the public's
13 interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk
14 of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and
15 (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at
16 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
18 litigation and the Court's interest in managing the docket weigh in favor of dismissal. The third
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
24 satisfies the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d
25 at 132-33; *Henderson*, 779 F.2d at 1424. The Court's February 11, 2011, order expressly stated that
26 failure to amend the complaint would result in a recommendation of dismissal. (Doc. 6.) Thus,
27 Plaintiff had adequate warning that dismissal would result from her noncompliance with the Court's
28 order.

