

## EASTERN DISTRICT OF CALIFORNIA

1 failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
2 See, e.g., Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with  
3 local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to  
4 comply with an order requiring amendment of complaint); Carey v. King, 856 F.2d 1439, 1440-  
5 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to  
6 keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir.  
7 1987) (dismissal for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421,  
8 1424 (9th Cir. 1986) (dismissal for failure to lack of prosecution and failure to comply with local  
9 rules).

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11 In determining whether to dismiss an action for lack of prosecution, failure to obey a  
12 court order, or failure to comply with local rules, the court must consider several factors: (1) the  
13 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;  
14 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on  
15 their merits; and (5) the availability of less drastic alternatives. Thompson, 782 F.2d at 831;  
16 Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali,  
17 46 F.3d at 53.

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

4 **RECOMMENDATION**

5 Accordingly, the Court HEREBY RECOMMENDS that this action be dismissed based  
6 on Plaintiff's failure to obey the Court’s order of January 27, 2015.

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8 These Findings and Recommendations are submitted to the United States District Judge  
9 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within ten (10)  
10 days after date of service of these Findings and Recommendations, Plaintiff may file written  
11 objections with the Court. Such a document should be captioned “Objections to Magistrate  
12 Judge's Findings and Recommendations.” Plaintiff is advised that failure to file objections  
13 within the specified time may waive the right to appeal the District Court's order. Martinez v.  
14 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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16 IT IS SO ORDERED.

17 Dated: March 3, 2015

18 /s/ Dennis L. Beck  
19 UNITED STATES MAGISTRATE JUDGE  
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