

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

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

15 In the instant case, the Court finds that the public's interest in expeditiously resolving this
16 litigation and the Court's interest in managing the docket weigh in favor of dismissal. The third
17 factor, risk of prejudice to defendants, also weighs in favor of dismissal, since a presumption of
18 injury arises from the occurrence of unreasonable delay in prosecuting an action. *Anderson v. Air*
19 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor -- public policy favoring disposition
20 of cases on their merits -- is greatly outweighed by the factors in favor of dismissal discussed
21 herein. Finally, a Court's warning to a party that his failure to obey the court's order will result in
22 dismissal satisfies the "consideration of alternatives" requirement. *Ferdik v. Bonzelet*, 963 F.2d at
23 1262; *Malone*, 833 at 132-33; *Henderson*, 779 F.2d at 1424. The Court's order to show cause
24 expressly stated that they must "show cause why sanctions should not be imposed based upon
25 their failure to appear at the status conference and to comply with the Court's orders." Thus,
26 Plaintiff had adequate warning that dismissal may result from his noncompliance with the Court's
27 order.

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1 Accordingly, the court HEREBY RECOMMENDS that this action be dismissed based on
2 Plaintiffs' counsel's failure prosecute this action and to obey the Court's order of January 14,
3 2014.

4 These findings and recommendations are submitted to the United States District Judge
5 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty (30)
6 days after being served with these findings and recommendations, Plaintiff may file written
7 objections with the Court. Such a document should be captioned "Objections to Magistrate
8 Judge's Findings and Recommendations." The parties are advised that failure to file objections
9 within the specified time may waive the right to appeal the District Court's order. *Martinez v.*
10 *Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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12 IT IS SO ORDERED.

13 Dated: February 13, 2014

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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