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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	STEWART MANAGO,	CASE NO. 1:11-cv-02003-JLT PC
12	Plaintiff,	FINDINGS AND RECOMMENDATIONS THAT THE ACTION BE DISMISSED FOR
13	V.	FAILURE TO PAY FILING FEE AND PROSECUTE THIS CASE
14	F. GONZALEZ, et al.,	PROSECUTE THIS CASE
15	Defendants.	
16	/	/
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18	Plaintiff Stewart Manago, a state prisoner proceeding pro se, filed this civil rights action	
19	pursuant to 42 U.S.C. § 1983. On January 5, 2012, Plaintiff filed a motion to proceed in forma	
20	pauperis. (Doc. 5.) On March 12, 2012, the Court denied Plaintiff's motion to proceed in forma	
21	pauperis and provided him 14 days within which to pay the filing fee. (Doc. 9) Nevertheless,	
22	Plaintiff has failed to do so.	
23	I. Discussion and Analysis	
24	"District courts have inherent power to control their dockets," and in exercising that power,	
25	a court may impose sanctions including dismissal of an action. Thompson v. Housing Authority of	
26	Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action with prejudice, based	
27	on a party's failure to prosecute an action or failure to obey a court order, or failure to comply with	
28	local rules. See, e.g., Ghazali v. Moran, 46 F.	3d 52, 53-54 (9 th Cir. 2995) (dismissal for failure to

comply with local rules); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for
 failure to comply with an order requiring amendment of complaint); *Malone v. U.S. Postal Service*,
 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and to comply
 with local rules).

In determining whether to dismiss an action for failure to prosecute, failure to obey a court order, or failure to comply with the Local Rules, the Court must consider several factors, including: "(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 sanctions." *Henderson*, 779 F.2d at 1423-24; *see also Ferdik*, 963 F.2d at 1260-61; *Thomspon*, 782 F.2d at 831.

In the case at hand, the public's interest in expeditiously resolving this litigation and the Court's interest in managing the docket weigh in favor of dismissal. The risk of prejudice to the defendants also weighs in favor of dismissal, since a presumption of injury arises from the occurrence of unreasonable delay in prosecution of an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The Court will not, and cannot, hold the case in abeyance based upon Plaintiff's failure to pay the filing fee and prosecute this action. Further, the policy favoring disposition of cases on their merits is outweighed by the factors in favor of dismissal.

On March 12, 2011, the Court warned "Plaintiff SHALL pay the filing fee within 14 days
of the date of service of this order or the matter SHALL be dismissed." (Doc. 9 at 2) Thus, Plaintiff
had adequate warning that dismissal would result from his noncompliance with the Court's order,
and this satisfies the requirement that the Court consider less drastic measures than dismissal of the
action. *Ferdik*, 963 F.2d at 1262; *Henderson*, 779 F.2d at 1424. Moreover, no lesser sanction is
feasible given the Court's inability to communicate with Plaintiff.

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IV.

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Findings and Recommendations

Plaintiff has failed to prosecute his case, comply with the Court's orders, and follow the
requirements of the Local Rules in this action. As set forth above, the factors set forth by the Ninth
Circuit weigh in favor of dismissal of the matter.

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1	Accordingly, IT IS HEREBY RECOMMENDED:	
2	1. This action be DISMISSED WITHOUT PREJUDICE ; and	
3	2. The Clerk of Court be directed to close this action because this order terminates the	
4	action in its entirety.	
5	These Findings and Recommendations are submitted to the United States District Judge	
6	assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the	
7	Local Rules of Practice for the United States District Court, Eastern District of California. Within	
8	fourteen days after being served with these Findings and Recommendations, any party may file	
9	written objections with the court. Such a document should be captioned "Objections to Magistrate	
10	Judge's Findings and Recommendations." The parties are advised that failure to file objections	
11	within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst,	
12	951 F.2d 1153 (9th Cir. 1991).	
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14	IT IS SO ORDERED.	
15	Dated:April 5, 2012/s/ Jennifer L. ThurstonUNITED STATES MAGISTRATE JUDGE	
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