

1 responses or to this Court's order of April 6, 2016.

2 Local Rule 110 provides that "failure of counsel or of a party to comply with these Rules
3 or with any order of the Court may be grounds for the imposition by the Court of any and all
4 sanctions . . . within the inherent power of the Court." District courts have the inherent power to
5 control their dockets and "in the exercise of that power, they may impose sanctions including,
6 where appropriate . . . dismissal of a case." *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th
7 Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute
8 an action, failure to obey a court order, or failure to comply with local rules. *See, e.g. Ghazali v.*
9 *Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v.*
10 *Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order
11 requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
12 (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of
13 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure
14 to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)
15 (dismissal for failure to lack of prosecution and failure to comply with local rules).

16 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
17 order, or failure to comply with local rules, the Court must consider several factors: (1) the
18 public's interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
19 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
20 their merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831;
21 *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*,
22 46 F.3d at 53.

23 The Court finds that the public's interest in expeditiously resolving this litigation and the
24 Court's interest in managing the docket weigh in favor of dismissal. The third factor, risk of
25 prejudice to defendant, also weighs in favor of dismissal, since a presumption of injury arises
26 from the occurrence of unreasonable delay in prosecuting an action. *Anderson v. Air West*, 542
27 F.2d 522, 524 (9th Cir. 1976). The fourth factor -- public policy favoring disposition of cases on
28 their merits -- is greatly outweighed by the factors in favor of dismissal discussed herein. Finally,

1 a Court's warning to a party that the failure to obey the court's order will result in dismissal
2 satisfies the "consideration of alternatives" requirement. *Ferdik v. Bonzelet*, 963 F.2d at 1262;
3 *Malone*, 833 at 132-33; *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file
4 an opposition or a statement of non-opposition to Defendants' motion to compel Plaintiff to
5 respond to discovery expressly stated in bold that "Plaintiff is warned that the failure to comply
6 with this order will result dismissal of this action, with prejudice, for failure to prosecute." Thus,
7 Plaintiff had adequate warning that dismissal may result from his noncompliance with the Court's
8 order.

9 Accordingly, the court HEREBY RECOMMENDS that this action be dismissed based on
10 Plaintiff's failure to obey the Court's order of April 6, 2016, (Doc. 52).

11 These Findings and Recommendations will be submitted to the United States District
12 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty
13 (30) days after being served with these Findings and Recommendations, the parties may file
14 written objections with the Court. The document should be captioned "Objections to Magistrate
15 Judge's Findings and Recommendations." The parties are advised that failure to file objections
16 within the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772
17 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

18
19 IT IS SO ORDERED.

20 Dated: May 5, 2016

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE