

1 The Local Rules, corresponding with Fed. R. Civ. P. 11, provide, “[f]ailure of counsel or of a
2 party to comply with . . . any order of the Court may be grounds for the imposition by the Court of any
3 and all sanctions . . . within the inherent power of the Court.” Local Rule 110. “District courts have
4 inherent power to control their dockets,” and in exercising that power, a court may impose sanctions
5 including dismissal of an action. Thompson v. Housing Authority of Los Angeles, 782 F.2d 829, 831
6 (9th Cir. 1986). A court may dismiss an action with prejudice, based on a party’s failure to prosecute
7 an action or failure to obey a court order, or failure to comply with local rules. *See, e.g.* Ferdik v.
8 Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order
9 requiring amendment of complaint); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)
10 (dismissal for failure to comply with a court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th
11 Cir. 1986) (dismissal for failure to prosecute and to comply with local rules).

12 In determining whether to dismiss an action for lack of prosecution, the court must consider
13 several factors: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to
14 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition
15 of cases on their merits; and (5) the availability of less drastic sanctions. Henderson v. Duncan, 779
16 F.2d 1421, 1423 (9th Cir. 1986); Carey v. King, 856 F.2d 1439 (9th Cir. 1988). The public’s interest in
17 expeditiously resolving this litigation and the Court’s interest in managing its docket weigh in favor of
18 dismissal, as this case has been pending since January 16, 2013. (Doc. 1). This case cannot be held
19 abeyance indefinitely based on Plaintiff’s failure to comply with the Court order dated February 22,
20 2013. (Doc. 5).

21 Additionally, Local Rule 183(b) requires Plaintiff to keep the Court abreast of his current
22 address. The Rule permits dismissal of a matter where the United States Postal Service returns mail as
23 undeliverable and a party fails to notify the Court of his or her new address within 63 days. Local Rule
24 183(b). As more than 63 days have passed since March 7, 2013, the public’s interest in expeditiously
25 resolving this matter weighs in favor of dismissal.

26 The risk of prejudice to Defendants also weighs in favor of dismissal, since a presumption of
27 injury arises from the occurrence of unreasonable delay in prosecuting an action. Anderson v. Air
28 West, 542 F.2d 522, 524 (9th Cir. 1976). Similarly, the factors in favor of dismissal discussed above

1 greatly outweigh the public policy favoring disposition of cases on their merits. Finally, no lesser
2 sanction is feasible given the Court's inability to communicate with Plaintiff based on Plaintiff's
3 continuous disregard for the Court's mandates. Therefore, the Magistrate Judge **RECOMMENDS**
4 **DISMISSAL OF THIS MATTER** for failure to prosecute and comply with Court order.

5 **ORDER**

6 The Clerk of the Court is **DIRECTED** to assign this matter to the appropriate U.S. District
7 Court Judge.

8 **FINDINGS AND RECOMMENDATIONS**

9 Accordingly, and for the aforementioned reasons, the Magistrate Judge **FINDS** that Plaintiff
10 has failed to comply with the Court's February 22, 2013, Order and has failed to comply with Local
11 Rule 183(b). Thus, **DISMISSAL** of this matter is **RECOMMENDED** for failure to comply with
12 Court order and for failure to prosecute.

13 These findings and recommendations are submitted to the United States District Judge
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the Local
15 Rules of Practice for the United States District Court, Eastern District of California. Within 14 days
16 after being served with these findings and recommendations, Plaintiff may file written objections with
17 the court. Such a document should be captioned "Objections to Magistrate Judge's Findings and
18 Recommendations." Plaintiff is advised failure to file objections within the specified time may waive
19 the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

20
21 IT IS SO ORDERED.

22 Dated: May 21, 2013

23 /s/ Jennifer L. Thurston
24 UNITED STATES MAGISTRATE JUDGE