



1           On May 5, 2014, after thirty (30) days had passed and Plaintiff had not complied with the  
2 order, the Court issued an order to show cause why this action should not be dismissed for failure  
3 to prosecute. Plaintiff was ordered to file a response within thirty (30) days. Over thirty (30)  
4 days have passed, but Plaintiff has failed to file a response or otherwise contact the Court.

5           “In determining whether to dismiss an action for lack of prosecution, the district court is  
6 required to consider several factors: (1) the public’s interest in expeditious resolution of  
7 litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants;  
8 (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less  
9 drastic sanctions.” Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988) (internal quotation marks  
10 and citation omitted); accord Omstead v. Dell, Inc., 594 F.3d 1081, 1084 (9th Cir. 2010); In re  
11 Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1226 (9th Cir. 2006).  
12 These factors guide a court in deciding what to do, and are not conditions that must be met in  
13 order for a court to take action. In re PPA, 460 F.3d at 1226 (citation omitted).

14           This case has been pending since January 25, 2013, and the expeditious resolution of  
15 litigation and the Court’s need to manage its docket weigh in favor of dismissal. Id. at 1227.  
16 Furthermore, Defendants are necessarily prejudiced when an action against them is pending and  
17 is not moving forward.  
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19           With respect to the fourth factor, “public policy favoring disposition of cases on their  
20 merits strongly counsels against dismissal,” but “this factor lends little support to a party whose  
21 responsibility it is to move a case toward disposition on the merits but whose conduct impedes  
22 progress in that direction.” Id. at 1228.

23           Finally, Plaintiff was warned in the order to show cause that dismissal would result if he  
24 failed to file a response.  
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1 **RECOMMENDATION**

2 Accordingly, the Court HEREBY RECOMMENDS DISMISSAL of this action based on  
3 Plaintiff's failure to prosecute.

4 These Findings and Recommendations will be submitted to the United States District  
5 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within  
6 FIFTEEN (15) days after being served with these Findings and Recommendations, Plaintiff may  
7 file written objections with the Court. The document should be captioned "Objections to  
8 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file  
9 objections within the specified time may waive the right to appeal the District Court's order.  
10 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).  
11

12 IT IS SO ORDERED.

13 Dated: June 18, 2014

14 /s/ Dennis L. Beck  
15 UNITED STATES MAGISTRATE JUDGE