

1 claims leaving open the question of whether supplemental jurisdiction should be exercised; and
2 remanded for further proceedings. (*Id.*)

3 Service of the Amended Complaint was subsequently ordered. (Doc. 35.) Defendants
4 responded on February 3, 2017, by filing a motion to dismiss. (Doc. 37.) Plaintiff did not file an
5 opposition or a statement of non-opposition. A second informational order issued on April 21,
6 2017, notifying Plaintiff of the requirements for an opposition and requiring him to file an
7 opposition or statement of non-opposition within 21 days of the date that order issued. (Doc. 38.)
8 Over a month lapsed without Plaintiff filing having filed either pleading. Thus, an order issued
9 directing Plaintiff, within 30 days, to show cause why the action should not be dismissed for his
10 failure to both comply with the April 21, 2017, order and to prosecute this action. (Doc. 39.)
11 Alternatively, Plaintiff was granted one last opportunity to file an opposition or statement of non-
12 opposition to Defendants' motion to dismiss. (*Id.*) More than one month has lapsed without
13 Plaintiff having complied with either the April 21, 2017 order or the order to show cause.

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

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1 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
2 order, or failure to comply with local rules, the Court must consider several factors: (1) the
3 public's interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
4 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
5 their merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831;
6 *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*,
7 46 F.3d at 53.

8 The Court finds that the public's interest in expeditiously resolving this litigation and the
9 Court's interest in managing the docket weigh in favor of dismissal. The third factor, risk of
10 prejudice to Defendants, also weighs in favor of dismissal, since a presumption of injury arises
11 from the occurrence of unreasonable delay in prosecuting an action. *Anderson v. Air West*, 542
12 F.2d 522, 524 (9th Cir. 1976). The fourth factor -- public policy favoring disposition of cases on
13 their merits -- is greatly outweighed by the factors in favor of dismissal discussed herein. Finally,
14 a Court's warning to a party that his failure to obey the court's order will result in dismissal
15 satisfies the "consideration of alternatives" requirement. *Ferdik v. Bonzelet*, 963 F.2d at 1262;
16 *Malone*, 833 at 132-33; *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file
17 an opposition or a statement of non-opposition to Defendants' motion to dismiss expressly stated:
18 "If Plaintiff fails to file an opposition or a statement of non-opposition to the motion, this action
19 may be dismissed, with prejudice, for failure to prosecute." (Doc. 38, p. 1 (emphasis in original).)

20 The order to show cause which issued on June 1, 2017, also cautioned that this action may
21 be dismissed for Plaintiff's failure to comply with the Court's orders to file an opposition or a
22 statement of non-opposition and for his failure to prosecute this action. (Doc. 39.) Thus, Plaintiff
23 had more than adequate warning that dismissal may result from his noncompliance with the
24 Court's orders.

25 Accordingly, the Court HEREBY RECOMMENDS that this action be dismissed with
26 prejudice based on Plaintiff's failure to obey the Court's orders of April 21, 2017, (Doc. 38) and
27 June 1, 2017 (Doc. 39).

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