

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

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

22 In the instant case, the Court finds that the public’s interest in expeditiously resolving this
23 litigation and the Court’s interest in managing the docket weigh in favor of dismissal. The third
24 factor, risk of prejudice to defendants, also weighs in favor of dismissal, since a presumption of
25 injury arises from the occurrence of unreasonable delay in prosecuting an action. Anderson v.
26 Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor -- public policy favoring
27 disposition of cases on their merits -- is greatly outweighed by the factors in favor of dismissal
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1 discussed herein. Finally, a court's warning to a party that his failure to obey the court's order
2 will result in dismissal satisfies the "consideration of alternatives" requirement. Ferdik v.
3 Bonzelet, 963 F.2d at 1262; Malone, 833 at 132-33; Henderson, 779 F.2d at 1424. The Court's
4 order expressly stated that dismissal would result if Plaintiff failed to file an amended complaint
5 within the allotted time. Thus, Plaintiff had adequate warning that dismissal would result from
6 his noncompliance with the Court's order.

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8 **RECOMMENDATION**

9 Accordingly, the Court HEREBY RECOMMENDS that this action be dismissed with
10 prejudice based on Plaintiff's failure to obey the Court's order of October 20, 2014.

11 These Findings and Recommendations are submitted to the United States District Judge
12 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen
13 (14) days after date of service of these Findings and Recommendations, Plaintiff may file written
14 objections with the Court. Such a document should be captioned "Objections to Magistrate
15 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections
16 within the specified time may waive the right to appeal the District Court's order. Martinez v.
17 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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19 IT IS SO ORDERED.

20 Dated: January 16, 2015

21 /s/ Dennis L. Beck
22 UNITED STATES MAGISTRATE JUDGE
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