



1 Circuit Court of Appeals, and a search of the Ninth Circuit's docket does not reveal any  
2 pending appeal by Plaintiff relating to the instant action. Presumably, Plaintiff's appeal  
3 was not processed because of the Ninth Circuit's May 13, 2014 order enjoining Plaintiff  
4 from filing further civil actions naming the same defendants and/or raising the same  
5 allegations as those in actions previously filed and dismissed in the district courts, and  
6 directing this court to reject any related notices of appeal. See In re: Young Yil Jo, No.  
7 13-80149 (9th Cir. May 13, 2014).

8 The action has been pending for over a year without any operative complaint and  
9 without Plaintiff submitting an application to proceed in forma pauperis or paying the  
10 applicable filing fee.

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

26 In determining whether to dismiss an action for lack of prosecution, failure to obey  
27 a court order, or failure to comply with local rules, the Court must consider several  
28 factors: (1) the public's interest in expeditious resolution of litigation, (2) the Court's need

1 to manage its docket, (3) the risk of prejudice to the defendants, (4) the public policy  
2 favoring disposition of cases on their merits, and (5) the availability of less drastic  
3 alternatives. Thompson, 782 F.2d at 831; Henderson, 779 F.2d at 1423-24; Malone, 833  
4 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali, 46 F.3d at 53.

5 In the instant case, the public's interest in expeditiously resolving this litigation  
6 and the Court's interest in managing its docket weigh in favor of dismissal. The third  
7 factor, risk of prejudice to Defendants, also weighs in favor of dismissal, since a  
8 presumption of injury arises from the occurrence of unreasonable delay in prosecuting  
9 this action. Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor --  
10 public policy favoring disposition of cases on their merits -- is greatly outweighed by the  
11 factors in favor of dismissal discussed herein. Finally, as for the availability of lesser  
12 sanctions, at this stage in the proceedings there is little available which would constitute  
13 a satisfactory lesser sanction while preserving scarce Court resources. Plaintiff has not  
14 paid the filing fee for this action and is likely unable to pay, making monetary sanctions  
15 of little use.

16 Accordingly, it is HEREBY ORDERED THAT:

- 17 1. Within fourteen (14) days of service of this Order, Plaintiff shall file an  
18 amended complaint or show cause as to why this action should not be  
19 dismissed without prejudice for failure to comply with the Court's order  
20 (ECF No. 2);
- 21 2. Within fourteen (14) days of service of this Order, Plaintiff also shall either  
22 file an application to proceed in forma pauperis, pay the \$400 filing fee in  
23 full, or show cause as to why this action should not be dismissed without  
24 prejudice for failure to comply with the Court's order (ECF No. 2); and
- 25 3. If Plaintiff fails to show cause, file an amended complaint, file an  
26 application to proceed in forma pauperis, or pay the \$400 filing fee in full,  
27 the undersigned will recommend that the action be dismissed without  
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4. prejudice for failure to obey a court order and failure to pay the applicable filing fee.

IT IS SO ORDERED.

Dated: May 15, 2015

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE