

1 The Court has the inherent power to control its docket and may, in the exercise of that power,
2 impose sanctions where appropriate, including dismissal of the action. Bautista v. Los Angeles
3 County, 216 F.3d 837, 841 (9th Cir. 2000). In determining whether to dismiss an action for failure to
4 comply with a pretrial order, the Court must weigh “(1) the public’s interest in expeditious resolution
5 of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4)
6 the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic
7 sanctions.” In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1226 (9th
8 Cir. 2006) (internal quotations and citations omitted).

9 “The public’s interest in expeditious resolution of litigation always favors dismissal,”
10 Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002) (citation and internal quotation marks
11 omitted), and Court’s need to manage its docket weighs in favor of dismissal, as “[i]t is incumbent
12 upon the Court to manage its docket without being subject to routine noncompliance of litigants,”
13 Pagtalunan, 291 F.3d at 642 (citation and internal quotation marks omitted). However, the Court is
14 constrained to find that the prejudice factor weighs against dismissal because the mere pendency of an
15 action does not constitute prejudice; and public policy favors disposition on the merits, which weighs
16 against dismissal. In re PPA, 460 F.3d at 1228; Pagtalunan, 291 F.3d at 642-43.

17 Nevertheless, there are no alternative sanctions which are satisfactory. In re PPA, 460 F.3d at
18 1228-29; Pagtalunan, 291 F.3d at 643. A monetary sanction has little to no benefit in a case in which
19 the plaintiff is proceeding in forma pauperis, and based on Plaintiff’s failure to comply with or
20 otherwise respond to the Court’s order, the Court is left with no alternative but to dismiss the action
21 for failure to prosecute. Id. This action, which has been pending since June 2014, requires Plaintiff’s
22 cooperation in its prosecution, the action cannot simply remain idle on the Court’s docket, and the
23 Court is not in a position to expend its scant resources resolving an unopposed motion in light of
24 Plaintiff’s demonstrated disinterest in continuing the litigation. Id.

25 Accordingly, it is **HEREBY RECOMMENDED** that this action be **DISMISSED**, with
26 prejudice, for failure to prosecute. In re PPA, 460 F.3d at 1226; Local Rule 110.

27 ///

28 ///

1 This Findings and Recommendation will be submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fifteen (15) days**
3 after being served with this Findings and Recommendation, the parties may file written objections
4 with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and
5 Recommendation.” The parties are advised that failure to file objections within the specified time may
6 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
7 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).
8

9
10 IT IS SO ORDERED.

11 Dated: September 22, 2015



12 UNITED STATES MAGISTRATE JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28