

1 To determine whether to dismiss this action for failure to comply with the directives set
2 forth in its order, “the Court must weigh the following factors: (1) the public’s interest in
3 expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of
4 prejudice to defendants/respondents; (4) the availability of less drastic alternatives; and (5) the
5 public policy favoring disposition of cases on their merits.” *Pagtalunan v. Galaza*, 291 F.3d
6 639, 642 (9th Cir. 2002), *citing Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992).

7 “The public’s interest in expeditious resolution of litigation always favors dismissal,”
8 *id.*, *quoting Yourish v. California Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999), and here, the
9 action has been pending since July 16, 2014. Plaintiff has been instructed to submit documents
10 required to serve his complaint on defendants, but has failed to do so. This reflects Plaintiff’s
11 lack of interest in prosecuting this case. The Court cannot continue to expend resources on a
12 case that Plaintiff has no interest in litigating. Thus, both the first and second factors weigh in
13 favor of dismissal.
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15 Turning to the risk of prejudice, “pendency of a lawsuit is not sufficiently prejudicial in
16 and of itself to warrant dismissal.” *Id.*, *citing Yourish*, 191 F.3d at 991. However, “delay
17 inherently increases the risk that witnesses’ memories will fade and evidence will become
18 stale,” *id.*, and it is Plaintiff’s failure to submit documents for service that is causing delay.
19 Therefore, the third factor weighs in favor of dismissal.

20 As for the availability of lesser sanctions, at this stage in the proceedings there is little
21 available to the Court which would constitute a satisfactory lesser sanction while protecting the
22 Court from further unnecessary expenditure of its scarce resources. Monetary sanctions are of
23 little use, and given the early stage of these proceedings, the preclusion of evidence or
24 witnesses is not available. Thus, they would not induce compliance. Plaintiff has also been
25 warned on at least two occasions that a failure to obey court orders will result in dismissal,
26 satisfying the requirement that the Court consider alternatives. *Ferdik*, 963 F.2d at 1262.
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