



1 prosecute and failure to obey the Court’s order.” *Id.* at 17, emphasis in the original. To date, Plaintiff  
2 has failed to comply with or otherwise respond to the Court’s orders.

3 **II. Failure to Prosecute and Obey the Court’s Orders**

4 The Local Rules, corresponding with Fed. R. Civ. P. 11, provide: “Failure of counsel or of a  
5 party to comply with . . . any order of the Court may be grounds for the imposition by the Court of any  
6 and all sanctions . . . within the inherent power of the Court.” LR 110. “District courts have inherent  
7 power to control their dockets,” and in exercising that power, a court may impose sanctions including  
8 dismissal of an action. *Thompson v. Housing Authority of Los Angeles*, 782 F.2d 829, 831 (9th Cir.  
9 1986). A court may dismiss an action with prejudice, based on a party’s failure to prosecute an action  
10 or failure to obey a court order, or failure to comply with local rules. *See, e.g. Ferdik v. Bonzelet*, 963  
11 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment  
12 of complaint); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to  
13 comply with a court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for  
14 failure to prosecute and to comply with local rules).

15 **III. Discussion and Analysis**

16 To determine whether to dismiss an action for failure to prosecute and failure to obey a Court  
17 order, the Court must consider several factors, including: “(1) the public’s interest in expeditious  
18 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the  
19 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability  
20 of less drastic sanctions.” *Henderson*, 779 F.2d at 1423-24; *see also Ferdik*, 963 F.2d at 1260-61;  
21 *Thomson*, 782 F.2d at 831.

22 In the case at hand, the public’s interest in expeditiously resolving this litigation and the Court’s  
23 interest in managing the docket weigh in favor of dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d  
24 983, 990 (9th Cir. 1999) (“The public’s interest in expeditious resolution of litigation always favors  
25 dismissal”); *Ferdik*, 963 F.2d at 1261 (recognizing that district courts have inherent interest in  
26 managing their dockets without being subject to noncompliant litigants). This Court cannot and will  
27 not hold this action in abeyance given Plaintiff’s failure to comply with the deadlines set forth by the  
28 Court and failure to prosecute. The risk of prejudice to the defendant also weighs in favor of dismissal,

1 since a presumption of injury arises from the occurrence of unreasonable delay in prosecution of an  
2 action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

3 Notably, Plaintiff was warned if he failed to comply with the Court's order, "the action will be  
4 dismissed for failure to prosecute and failure to obey the Court's order." (Doc. 2 at 17, emphasis in the  
5 original). Thus, Plaintiff had adequate warning that dismissal would result from his noncompliance  
6 with the Court's orders and his failure to prosecute the action. Further, these warnings satisfy the  
7 requirement that the Court consider less drastic measures. *Ferdik*, 963 F.2d at 1262; *Henderson*, 779  
8 F.2d at 1424. Given these facts, the policy favoring disposition of cases on their merits is outweighed  
9 by the factors in favor of dismissal.

10 **IV. Order**

11 Good cause appearing, the Clerk of Court is **DIRECTED** to assign a United States District  
12 Judge to this action.

13 **V. Findings and Recommendations**

14 Plaintiff has failed to prosecute this action and failed to comply with the Court's order dated  
15 November 18, 2014. (Doc. 2) Accordingly, the Court **RECOMMENDS** this action be **DISMISSED**  
16 **WITHOUT PREJUDICE**.

17 These Findings and Recommendations are submitted to the United States District Judge  
18 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the Local  
19 Rules of Practice for the United States District Court, Eastern District of California. Within 14 days  
20 after being served with these Findings and Recommendations, Plaintiff may file written objections  
21 with the Court. Such a document should be captioned "Objections to Magistrate Judge's Findings and  
22 Recommendations." Plaintiff is advised that failure to file objections within the specified time may  
23 waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

24  
25 IT IS SO ORDERED.

26 Dated: December 22, 2014

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE