

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ANGEL AVALOS.

1:15-cv-00369-LJO-JLT (PC)

Plaintiff,

**FINDINGS AND RECOMMENDATION TO
DISMISS WITH PREJUDICE FOR
PLAINTIFF'S FAILURE TO COMPLY
WITH THE COURT'S ORDER AND
FAILURE TO PROSECUTE THIS ACTION**

CARPENTER, et al.,

(Docs. 26-28, 31)

30-DAY DEADLINE

On July 8, 2016, the only remaining defendant filed three motions to compel the plaintiff to respond to his discovery requests. (Docs. 26, 27, 28.) The plaintiff did not respond to any of these motions. Local Rule 230(l). Thus, on August 18, 2016, the Court ordered the plaintiff to file an opposition or a statement of non-opposition within 21 days. (Doc. 31.) The Court warned the plaintiff was warned that his failure to comply with the order would result in recommendation that this action be dismissed. (*Id.*)

The Local Rules, corresponding with Fed. R. Civ. P. 11, provide, “[f]ailure of counsel, or of a party to comply with . . . any order of the Court may be grounds for the imposition by the Court of any and all sanctions . . . within the inherent power of the Court.” Local Rule 110. “District courts have inherent power to control their dockets,” and in exercising that power, a court may impose sanctions, including dismissal of an action. *Thompson v. Housing Authority of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action with prejudice,

1 based on a party's failure to prosecute an action or failure to obey a court order, or failure to
2 comply with local rules. *See, e.g. Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
3 (dismissal for failure to comply with an order requiring amendment of complaint); *Malone v. U.S.*
4 *Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court
5 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to
6 prosecute and to comply with local rules).

7 Based on Plaintiff's failure to comply with or otherwise respond to the Court's order, the
8 Court has no alternative but to recommend dismissal. Accordingly, the Court **RECOMMENDS**
9 that this action be dismissed, with prejudice, for Plaintiff's failure both to obey a court order and
10 to prosecute this action. 42 U.S.C. § 1997e (a).

11 These Findings and Recommendations will be submitted to the United States District
12 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **30**
13 **days** after being served with these Findings and Recommendations, Plaintiff may file written
14 objections with the Court. The document should be captioned "Objections to Magistrate Judge's
15 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
16 specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834,
17 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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19 IT IS SO ORDERED.

20 Dated: September 13, 2016

21 /s/ Jennifer L. Thurston
22 UNITED STATES MAGISTRATE JUDGE
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