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8	UNITED STATES DISTRICT COURT		
9	EASTERN DISTRICT OF CALIFORNIA		
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11	CARLOS FRANCISCO LOPEZ,	CASE No. 1:16-cv-0039-AWI-MJS (PC)	
12	Plaintiff,	FINDINGS & RECOMMENDATION TO	
13	v.	DISMISS ACTION FOR FAILURE TO COMPLY WITH COURT ORDER AND	
14	HOLLAND, et al.,	FAILURE TO PROSECUTE	
15	Defendants.	(ECF NO. 11)	
16	Defendants.	FOURTEEN-DAY DEADLINE	
17	Plaintiff is a state prisoner proceeding pro se and in forma pauperis in a civil rights		
18	action pursuant to 42 U.S.C. § 1983. On April 1, 2016, Plaintiff's complaint was		
19	dismissed for failure to state a claim, and he was granted thirty days to file an amended complaint. (ECF No. 10.) On April 18, 2016, the undersigned granted Plaintiff's motion for a 60-day extension of time to file a First Amended Complaint, and his amended pleading was due on or before June 18, 2016. That date has now passed, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order. Local Rule 110 provides that "failure of counsel or of a party to comply with these		
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25	Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions within the inherent power of the Court." District courts have the		
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27 28	inherent power to control their dockets and "in the exercise of that power, they may		
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1 impose sanctions including, where appropriate . . . dismissal of a case." Thompson v. 2 Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with 3 prejudice, based on a party's failure to prosecute, failure to obey a court order, or failure 4 to comply with local rules. See, e.g., Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) 5 (dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-6 61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of a 7 complaint); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure 8 to comply with local rule requiring pro se plaintiffs to keep court apprised of address); 9 Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to 10 comply with a court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) 11 (dismissal for lack of prosecution and failure to comply with local rules). 12 In determining whether to dismiss an action for lack of prosecution, failure to obey 13 a court order, or failure to comply with local rules, the Court must consider several 14 factors: (1) the public's interest in expeditious resolution of litigation, (2) the Court's need 15 to manage its docket, (3) the risk of prejudice to the defendants, (4) the public policy 16 favoring disposition of cases on their merits, and (5) the availability of less drastic 17 alternatives. Thompson, 782 F.2d at 831; Henderson, 779 F.2d at 1423-24; Malone, 833 18 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali, 46 F.3d at 53. 19 In the instant case, the public's interest in expeditiously resolving this litigation 20 and the Court's interest in managing its docket weigh in favor of dismissal. The third 21 factor, risk of prejudice to Defendants, also weighs in favor of dismissal, since no 22 Defendant has yet appeared in this case and, in any event, a presumption of injury 23 arises from the occurrence of unreasonable delay in prosecuting this action. Anderson v. 24 Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy favoring 25 disposition of cases on their merits – is greatly outweighed by the factors in favor of 26 dismissal discussed herein. Finally, as for the availability of lesser sanctions, at this 27 stage in the proceedings there is little available which would constitute a satisfactory

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1	lesser sanction while preserving scarce Court resources. Plaintiff has not paid the filing	
2	fee for this action and is likely unable to pay, making monetary sanctions of little use.	
3	Based on the foregoing, it is HEREBY RECOMMENDED that the action be	
4	dismissed, with prejudice, for failure to obey a court order and failure to prosecute.	
5	The findings and recommendation are submitted to the United States District	
6	Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within	
7	fourteen (14) days after being served with the findings and recommendation, any party	
8	may file written objections with the Court and serve a copy on all parties. Such a	
9	document should be captioned "Objections to Magistrate Judge's Findings and	
10	Recommendation." Any reply to the objections shall be served and filed within fourteen	
11	(14) days after service of the objections. The parties are advised that failure to file	
12	objections within the specified time may result in the waiver of rights on appeal.	
13	Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923	
14	F.2d 1391, 1394 (9th Cir. 1991)).	
15	IT IS SO ORDERED.	
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17	Dated: <u>July 5, 2016</u> Isl Michael J. Seng	
18	UNITED STATES MAGISTRATE JUDGE	
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