

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)).

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16 IT IS SO ORDERED.

17 Dated: July 5, 2016

18 /s/ Michael J. Seng
19 UNITED STATES MAGISTRATE JUDGE
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