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<u>8</u>	UNITED STATES DISTRICT COURT		
9	EASTERN DISTRICT OF CALIFORNIA		
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11	SIMON THORNTON,	CASE NO. 1:16-cv-0498-AWI-MJS (PC)	
12	Plaintiff,	ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE DISMISSED WITH	
13	V.	PREJUDICE FOR FAILURE TO OBEY A	
14	DONALD L. GRISSOM, et al.,	COURT ORDER AND FAILURE TO PROSECUTE	
15	Defendants.	FOURTEEN-DAY DEADLINE	
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17 19	Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil		
18 19	rights action brought pursuant to 42 U.S.C. § 1983. On October 5, 2016, Plaintiff's First		
20	Amended Complaint ("FAC") was screened and found to state cognizable Eighth		
20	Amendment excessive force and failure to protect claims against Defendants Grissom		
22	and Cruz. (ECF No. 18.) Plaintiff was then directed to file either a notice of his		
22	willingness to proceed on the FAC as screened or to file a Second Amended Complaint.		
23	Although Plaintiff filed a notice of intent to file an amended pleading, he has yet to file		
25	one and the deadline for filing has now passed.		
26	Local Rule 110 provides that "failure of counsel or of a party to comply with these		
27	Rules or with any order of the Court may be grounds for imposition by the Court of any		
28	and all sanctions within the inherent p	power of the Court."	
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1 District courts have the inherent power to control their dockets and "in the 2 exercise of that power, they may impose sanctions including, where appropriate ... 3 dismissal of a case." Thompson v. Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986). A 4 court may dismiss an action, with prejudice, based on a party's failure to prosecute, 5 failure to obey a court order, or failure to comply with local rules. See, e.g., Ghazali v. 6 Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); 7 Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to 8 comply with an order requiring amendment of a complaint); Carey v. King, 856 F.2d 9 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro 10 se plaintiffs to keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d 11 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court order); Henderson v. 12 Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and 13 failure to comply with local rules).

In determining whether to dismiss an action for lack of prosecution, failure to obey
a court order, or failure to comply with local rules, the Court must consider several
factors: (1) the public's interest in expeditious resolution of litigation, (2) the Court's need
to manage its docket, (3) the risk of prejudice to the defendants, (4) the public policy
favoring disposition of cases on their merits, and (5) the availability of less drastic
alternatives. <u>Thompson</u>, 782 F.2d at 831; <u>Henderson</u>, 779 F.2d at 1423-24; <u>Malone</u>, 833
F.2d at 130; <u>Ferdik</u>, 963 F.2d at 1260-61; <u>Ghazali</u>, 46 F.3d at 53.

In the instant case, the public's interest in expeditiously resolving this litigation
and the Court's interest in managing its docket weigh in favor of dismissal. The third
factor, risk of prejudice to Defendants, neither weighs for nor against dismissal since no
Defendant has yet to appear in this action. The fourth factor – public policy favoring
disposition of cases on their merits – is greatly outweighed by the factors in favor of
dismissal discussed herein. Finally, as for the availability of lesser sanctions, at this
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	Accordingly, it is HEREBY ORDERED THAT within fourteen days from the date of	
4	service of this order:	
5	1. Plaintiff shall show cause why this action should not be dismissed for failure to	
6	comply with a court order;	
7	2. Alternatively, Plaintiff may:	
8	a. File an amended complaint curing the deficiencies identified by the Court in	
9	the October 5, 2016, Screening Order, or	
10	b. Notify the Court in writing that he does not wish to file an amended	
11	complaint and he is willing to proceed only on the claims found to be	
12	cognizable in that order; and	
13	3. If Plaintiff fails to respond to this order, the undersigned will recommend dismissal	
14	of this action for failure to obey a court order and failure to prosecute.	
15	IT IS SO ORDERED	
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17	Dated: <u>February 6, 2017</u> Isl Michael J. Seng	
18	UNITED STATES MAGISTRATE JUDGE	
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