



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).

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

21 In the instant case, the public’s interest in expeditiously resolving this litigation  
22 and the Court’s interest in managing its docket weigh in favor of dismissal. The third  
23 factor, risk of prejudice to Defendants, neither weighs for nor against dismissal since no  
24 Defendant has yet to appear in this action. 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 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.

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16 IT IS SO ORDERED.

17 Dated: February 6, 2017

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

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