

1 Plaintiff presents no such compelling circumstances in support of his request for yet
2 another extension of time and does not explain how his appointment with the behavioral health
3 specialist will enable him to file a first amended complaint in this action. Therefore, plaintiff's
4 motion for a further extension of time will be denied.

5 Moreover, the court will dismiss this case for failure to prosecute. *See McKeever v. Block*,
6 932 F.2d 795, 797 (9th Cir. 1991) (holding district court may *sua sponte* dismiss for unreasonable
7 failure to prosecute). Prior to doing so, the court must weigh five factors: "(1) the public's
8 interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the
9 risk of prejudice to defendants/respondents; (4) the availability of less drastic alternatives; and (5)
10 the public policy favoring disposition of cases on their merits." *Pagtalunan v. Galaza*, 291 F.3d
11 639, 642 (9th Cir. 2002); *In re Eisen*, 31 F.3d 1447, 1451 (9th Cir. 1994).

12 Here, the public has only a nominal interest in the expeditious resolution of this litigation.
13 No defendants have yet appeared, and the public's only significant interest in resolving this case
14 is that its continued pendency requires the court's time and attention. While this court carries a
15 heavy caseload and the public has an undeniable interest in this court being able to turn to other
16 pressing matters, this factor does not weigh strongly for or against dismissal.

17 The court does, however, have a strong need to manage its docket. The Eastern District of
18 California has one of the heaviest caseloads per active district judge of any of the federal courts in
19 this country, and its ability to control its docket by dismissing languishing cases is of great
20 importance. This case has been pending before the court for eleven months and a proper
21 complaint is still not before the court. Moreover, plaintiff was specifically warned by the court
22 that his failure to file an amended complaint within the additional thirty days provided by the
23 court for that purpose, after the granting of numerous prior requests for extension of time, would
24 result in dismissal of this action. Consideration of this factor weighs in favor of dismissal.

25 There is no real risk of prejudice to the defendants here. They have not been served and
26 have not appeared in this matter, and therefore have no rights that will be compromised by
27 dismissal. This factor weighs in favor of dismissal.

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