

1 Local Rule 110 provides that “[f]ailure of counsel or of a party to comply with these Rules
2 or with any order of the Court may be grounds for the imposition by the Court of any and all
3 sanctions . . . within the inherent power of the Court.” District courts have the inherent power to
4 control their dockets and “in the exercise of that power, they may impose sanctions including,
5 where appropriate . . . dismissal.” *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986).
6 A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a
7 court order, or failure to comply with local rules. *See, e.g., Ghazali v. Moran*, 46 F.3d 52, 53-54
8 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258,
9 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of
10 complaint); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of
11 prosecution and failure to comply with local rules).

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

18 In the instant case, the Court finds that the public’s interest in expeditiously resolving this
19 litigation and the Court’s interest in managing the docket weigh in favor of dismissal because the
20 case has been pending since October 14, 2016, the date it was filed in Fresno County Superior
21 Court. Following the settlement and dismissal of a single defendant, however, Plaintiffs have
22 shown no interest in participating in the litigation any further. The third factor, risk of prejudice to
23 defendants, also weighs in favor of dismissal because a presumption of injury arises from any
24 unreasonable delay in prosecuting an action. *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.
25 1976). The fourth factor, public policy favoring disposition of cases on their merits, is outweighed
26 by the factors in favor of dismissal. Finally, a court’s warning to a party that his failure to obey
27 the court’s order will result in dismissal satisfies the “consideration of alternatives” requirement.
28 *Ferdik*, 963 F.2d at 1262; *Henderson*, 779 F.2d at 1424. The Court’s Order to Show Cause clearly

1 stated that the case would be dismissed if Plaintiffs failed to respond to the Order to Show Cause.
2 (ECF No. 20.) Moreover, there are few sanctions that could compel Plaintiffs to prosecute an
3 action that they are simply uninterested in pursuing, particular at this early stage of litigation.

4 Accordingly, IT IS HEREBY RECOMMENDED that this action be DISMISSED for
5 Plaintiffs' failure to prosecute the action, to appear, and comply with the Court's order of January
6 30, 2017.

7 These findings and recommendations will be submitted to the United States District Judge
8 assigned to this case pursuant to the provisions of Title 28 of the United States Code section
9 636(b)(1). Within **fourteen (14)** days after being served with these findings and
10 recommendations, the parties may file written objections with the Court. The document should be
11 captioned "Objections to Magistrate Judge's Findings and Recommendations." The parties are
12 advised that failure to file objections within the specified time may waive the right to appeal the
13 District Court's order. *Bastidas v. Chappell*, 791 F.3d 1155, 1159 (9th Cir. 2015).

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15 IT IS SO ORDERED.

16 Dated: March 6, 2017

17 /s/ Eric P. Gray
18 UNITED STATES MAGISTRATE JUDGE
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