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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

FLOYD KNAPP,

Plaintiff,

CIV. NO. S-10-2889 KJM GGH PS

vs.

JP MORGAN CHASE BANK, N.A., et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

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This action was referred to the undersigned pursuant to Local Rule 302(c)(21). This case was removed from state court on October 27, 2010. In the order requiring joint status report, filed October 27, 2010, plaintiff was advised of the requirement to obey federal and local rules, as well as orders of this court, and the possibility of dismissal for failure to do so. Defendants filed a motion to dismiss on June 17, 2011, to which plaintiff did not respond. Plaintiff also failed to appear at the July 21, 2011 hearing. On August 4, 2011, this court issued findings and recommendations, recommending that this action be dismissed for plaintiff's failure to oppose defendants' motion to dismiss. On August 11, 2011, plaintiff filed objections, which state that he did not receive a court order regarding the July 21, 2011 hearing until days after the hearing. He claims he also did not receive the motion to dismiss and was unaware of the hearing or the motion. Despite plaintiff's various, somewhat suspect excuses, plaintiff was given the

1 opportunity to oppose the motion, and warned that he would not be granted any further  
2 extensions. Plaintiff has not filed an opposition.

3           Although the court liberally construes the pleadings of pro se litigants, they are  
4 required to adhere to the rules of court. As set forth in the district court’s order requiring status  
5 report, failure to obey local rules may not only result in dismissal of the action, but “no party will  
6 be entitled to be heard in opposition to a motion at oral arguments if opposition has not been  
7 timely filed by that party.” E. D. Cal. L. R. 230(c). More broadly, failure to comply with the  
8 Local Rules or “any order of the court may be grounds for imposition . . . of any and all sanctions  
9 authorized by statute or Rule or within the inherent power of the Court.” E. D. Cal. L. R. 110;  
10 see also E. D. Cal. L. R. 183 (requiring compliance with the Local and Federal Rules by pro se  
11 litigants).

12           “Failure to follow a district court’s local rules is a proper ground for dismissal.”  
13 Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). The court should consider: (1) the public’s  
14 interest in expeditious resolution of litigation, (2) the court’s need to manage its docket, (3) the  
15 risk of prejudice to the defendants, (4) the public policy favoring disposition of cases on their  
16 merits, and (5) the availability of less drastic sanctions. Similar considerations authorize  
17 dismissal of an action for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). Link v. Wabash  
18 R.R., 370 U.S. 626, 633 (1962); McKeever v. Block, 932 F.2d 795, 797 (9th Cir. 1991).  
19 Moreover, failure to obey court orders is a separate and distinct ground for imposing the sanction  
20 of dismissal. See Malone v. United States Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)  
21 (setting forth same factors for consideration as Ghazali).

22           The court has considered the factors set forth in Ghazali. “[T]he key factors are  
23 prejudice and availability of lesser sanctions.” Wanderer v. Johnston, 910 F.2d 652, 656 (9th  
24 Cir. 1990). Defendants are clearly prejudiced by the requirement of defending an abandoned  
25 case, and this court is put in the untenable position of expending limited judicial resources to  
26 decide such a case on the merits. The public’s interest in expeditious resolution of litigation, the

