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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID SEGOVIA,  
Plaintiff,  
v.  
STATE OF CALIFORNIA, et al.,  
Defendants.

No. 2:14-cv-0715 GEB DB P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis seeking relief pursuant to 42 U.S.C. § 1983. Plaintiff's first amended complaint is the operative pleading and was found to state claims against defendants Convalecer, Moon, and Peters. (ECF Nos. 9, 12.)

Before the court is defendants Moon and Peters's December 1, 2016, motion for summary judgment. (ECF No. 27.) To date, plaintiff has not filed an opposition or statement of non-opposition to this motion. This failure to oppose follows several instances in which plaintiff has failed to prosecute this action, including (1) his failure to respond to the court's December 20, 2016, directive to submit additional information within 60 days to effectuate service on defendant Convalecer (ECF No. 28); (2) his failure to respond at all to defendant Peters's July 25, 2016, discovery requests; and (3) his failure to file an opposition or statement of non-opposition to defendants' September 9, 2016, motion to compel (ECF No. 25).

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1 Local Rule 230(l) provides in part: “Failure of the responding party to file written  
2 opposition or to file a statement of no opposition may be deemed a waiver of any opposition to  
3 the granting of the motion . . . .” Furthermore, Local Rule 110 provides that failure to comply  
4 with the Local Rules or any order of the court “may be grounds for imposition of any and all  
5 sanctions authorized by statute or Rule or within the inherent power of the Court.”

6 District courts have the inherent power to control their dockets and “in the exercise of that  
7 power, they may impose sanctions including, where appropriate . . . dismissal of a case.”  
8 Thompson v. Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action,  
9 with prejudice, based on a party’s failure to prosecute, failure to obey a court order, or failure to  
10 comply with local rules. See, e.g., Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal  
11 for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)  
12 (dismissal for failure to comply with an order requiring amendment of a complaint); Carey v.  
13 King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule  
14 requiring pro se plaintiffs to keep court apprised of address); Malone v. U.S. Postal Service, 833  
15 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court order); Henderson v.  
16 Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to  
17 comply with local rules).

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

25 In the instant case, the public’s interest in expeditiously resolving this litigation and the  
26 Court’s interest in managing its docket weigh in favor of dismissal. The third factor, risk of  
27 prejudice to defendants, also weighs in favor of dismissal, since a presumption of injury arises  
28 from the occurrence of unreasonable delay in prosecuting this action. Anderson v. Air West, 542

1 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy favoring disposition of cases on  
2 their merits – is greatly outweighed by the factors in favor of dismissal discussed herein. Finally,  
3 as for the availability of lesser sanctions, at this stage in the proceedings there is little available  
4 which would constitute a satisfactory lesser sanction while preserving scarce court resources.  
5 Plaintiff has not paid the filing fee for this action and is likely unable to pay, making monetary  
6 sanctions of little use.

7 Accordingly, it is **HEREBY ORDERED** that plaintiff shall show cause within fourteen  
8 days from the date of this order why this action should not be dismissed for failure to prosecute.

9 Dated: March 28, 2017

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12 DEBORAH BARNES  
13 UNITED STATES MAGISTRATE JUDGE

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