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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 KENT H. SMITH,

No. 2:14-cv-01324-KJM-KJN

12 Plaintiff,

ORDER

14 NEVADA COUNTY TREASURER AND
15 TAX COLLECTOR, and RYAN MILLER,
Defendants

Defendants.

18 On March 4, 2015, this court granted plaintiff's counsel's motion to withdraw and
19 granted plaintiff thirty (30) days in which to hire new counsel or indicate his intent to proceed pro
20 se. (ECF No. 19.) Plaintiff did not respond within the thirty days. In a minute order dated April
21 10, 2015 (ECF No. 20) and served on plaintiff by mail, plaintiff was given additional time in
22 which to inform the court of his intent to proceed pro se. The April 2015 order cautioned that
23 failure to submit a status report by April 23, 2015, could result in sanctions. Plaintiff has not
24 responded to the court's order.

25 The Local Rules of this district provide that “[f]ailure of counsel or of a party to
26 comply with these Rules or with any order of the Court may be grounds for imposition by the
27 Court of any and all sanctions authorized by statute or Rule or within the inherent power of the
28 Court.” E.D. Cal. L.R. 110. A court must weigh five factors in determining whether to dismiss a

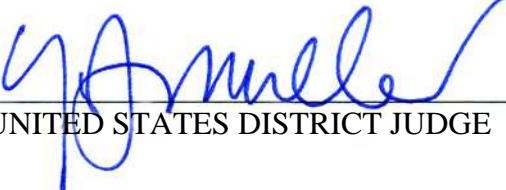
1 case for failure to prosecute, failure to comply with a court order, or failure to comply with a
2 district court's local rules. *See, e.g., Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir.1992).
3 Specifically, the court must consider: (1) the public's interest in expeditious resolution of
4 litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4)
5 the public policy favoring disposition of cases on their merits; and (5) the availability of less
6 drastic alternatives. *Id.* at 1260–61; *accord Pagtalunan v. Galaza*, 291 F.3d 639, 642–43 (9th
7 Cir. 2002); *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

8 On balance, the factors support dismissal. The court attempted less drastic
9 measures by requesting plaintiff inform the court of an intent to continue the action, either pro se
10 or with new representation. In its second order, the court provided notice that a failure to respond
11 could lead to sanctions. Plaintiff twice has not responded to court orders. The lack of response
12 indicates that any other potential action, such as the imposition of monetary sanctions or an
13 additional request for response, would be futile. The remaining defendant, Ryan Miller, has not
14 yet appeared. In light of the absence of any suggestion plaintiff intends to continue pursuing his
15 action, the court finds dismissal is appropriate.

16 Accordingly, IT IS HEREBY ORDERED that this action is dismissed without
17 prejudice. *See* Local Rule 110; Fed. R. Civ. P. 41(b). The Clerk of the Court is directed to close
18 the case.

19 IT IS SO ORDERED.

20 DATED: May 20, 2015.

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22 UNITED STATES DISTRICT JUDGE
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