



1 comply with these rules and a court order. Plaintiff was also informed that failure to file an  
2 opposition would result in a recommendation that this action be dismissed pursuant to Rule 41(b)  
3 of the Federal Rules of Civil Procedure.

4 The thirty day period has now expired and plaintiff has not responded to the court's order.

5 "Pursuant to Federal Rule of Civil Procedure 41(b), the district court may dismiss an  
6 action for failure to comply with any order of the court." Ferdik v. Bonzelet, 963 F.2d 1258,  
7 1260 (9th Cir. 1992). "In determining whether to dismiss a case for failure to comply with a  
8 court order the district court must weigh five factors including: '(1) the public's interest in  
9 expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of  
10 prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits;  
11 and (5) the availability of less drastic alternatives.'" Ferdik, 963 F.2d at 1260-61 (quoting  
12 Thompson v. Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986)); see also Ghazali v. Moran, 46  
13 F.3d 52, 53 (9th Cir. 1995).

14 In determining to recommend that this action be dismissed, the court has considered the  
15 five factors set forth in Ferdik. Here, as in Ferdik, the first two factors strongly support dismissal  
16 of this action. The action has been pending for one year and has reached the stage, set by the  
17 court's February 3, 2016 scheduling order, for resolution of dispositive motions and, if necessary,  
18 preparation for pretrial conference and jury trial. (See Scheduling Order, filed February 3, 2016  
19 (ECF No. 19).) Plaintiff's failure to comply with the Local Rules and the court's August 24,  
20 2016 order suggests that she has abandoned this action and that further time spent by the court  
21 thereon will consume scarce judicial resources in addressing litigation which plaintiff  
22 demonstrates no intention to pursue.

23 Under the circumstances of this case, the third factor, prejudice to defendants from  
24 plaintiff's failure to oppose the motion, also favors dismissal. Plaintiff's failure to oppose the  
25 motion prevents defendants from addressing plaintiff's substantive opposition, and would delay  
26 resolution of this action, thereby causing defendants to incur additional time and expense.

27 The fifth factor also favors dismissal. The court has advised plaintiff of the requirements  
28 under the Local Rules and granted ample additional time to oppose the pending motion, all to no

1 avail. The court finds no suitable alternative to dismissal of this action.

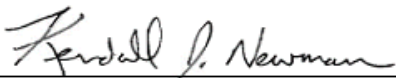
2 The fourth factor, public policy favoring disposition of cases on their merits, weighs  
3 against dismissal of this action as a sanction. However, for the reasons set forth above, the first,  
4 second, third, and fifth factors strongly support dismissal. Under the circumstances of this case,  
5 those factors outweigh the general public policy favoring disposition of cases on their merits. See  
6 Ferdik, 963 F.2d at 1263.

7 For the foregoing reasons, IT IS HEREBY ORDERED that defendants' summary  
8 judgment motion (ECF No. 26) is vacated; and

9 IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice  
10 pursuant to Federal Rule of Civil Procedure 41(b).

11 These findings and recommendations are submitted to the United States District Judge  
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
13 after being served with these findings and recommendations, any party may file written  
14 objections with the court and serve a copy on all parties. Such a document should be captioned  
15 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
16 objections shall be filed and served within fourteen days after service of the objections. The  
17 parties are advised that failure to file objections within the specified time may waive the right to  
18 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

19 Dated: October 12, 2016

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22 KENDALL J. NEWMAN  
23 UNITED STATES MAGISTRATE JUDGE

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