

1 was re-served on Plaintiff at his new address. To date, more than 30 days have elapsed since the
2 order was re-served on Plaintiff on March 26, 2024, and Plaintiff has not complied by initiating
3 default proceedings against Defendant Thomas A.

4 The Court must weigh five factors before imposing the harsh sanction of dismissal.
5 See *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000); *Malone v. U.S. Postal*
6 *Service*, 833 F.2d 128, 130 (9th Cir. 1987). Those factors are: (1) the public's interest in
7 expeditious resolution of litigation; (2) the court's need to manage its own docket; (3) the risk of
8 prejudice to opposing parties; (4) the public policy favoring disposition of cases on their merits;
9 and (5) the availability of less drastic sanctions. See *id.*; see also *Ghazali v. Moran*, 46 F.3d 52,
10 *53 (9th Cir. 1995) (per curiam)*. A warning that the action may be dismissed as an appropriate
11 sanction is considered a less drastic alternative sufficient to satisfy the last factor. See *Malone*,
12 *833 F.2d at 132-33 & n.1*. The sanction of dismissal for lack of prosecution is appropriate where
13 there has been unreasonable delay. See *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir.
14 *1986)*. Dismissal has also been held to be an appropriate sanction for failure to comply with an
15 order to file an amended complaint. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
16 *1992)*.

17 Having considered these factors, and in light of Plaintiff's failure to respond to the
18 Court's order to show cause or prosecute this case, dismissal of this action is appropriate.

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Based on the foregoing, the undersigned recommends that this action be dismissed, without prejudice, for lack of prosecution and failure to comply with court rules and orders.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days after being served with these findings and recommendations, any party may file written objections with the court. Responses to objections shall be filed within 14 days after service of objections. Failure to file objections within the specified time may waive the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: June 3, 2024



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE