

\*E-Filed 05/03/2010\*

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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 RAY HRDLICKA,  
12  
13 Plaintiff,

No. C 09-04055 RS  
**ORDER TO SHOW CAUSE**

14 v.

15 AIG, a Delaware Corporation; and  
16 GRANITE STATE INSURANCE  
COMPANY, a Pennsylvania Corporation,

17 Defendants.  
18 \_\_\_\_\_/

19 This case is before the Court on a motion to dismiss filed by defendants AIG and Granite  
20 State Insurance Company. The hearing on defendants' motion is currently set for May 6, 2010.  
21 Plaintiff Ray Hrdlicka has not opposed the motion.

22 This failure suggests a lack of interest in prosecuting this case. Under Federal Rule of Civil  
23 Procedure 41(b), the court may dismiss an action for failure to prosecute. In determining whether a  
24 plaintiff's failure to prosecute warrants dismissal of the case, the court must weigh the following  
25 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
26 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
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1 disposition of cases on their merits; and (5) the availability of less drastic sanctions. *Henderson v.*  
2 *Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986).

3 Generally speaking, however, the district court must first warn the plaintiff that the case is in  
4 danger of being dismissed for failure to prosecute and give the plaintiff an opportunity to respond.  
5 *See, e.g., Palma v. Dent*, No. C 06-6151 PJH, 2007 WL 2023517 at \*3 (N.D. Cal. July 12, 2007).  
6 Accordingly, Hrdlicka is hereby ordered to show cause in writing why this case should not be  
7 dismissed for failure to prosecute under Rule 41(b). His show cause response should be filed in this  
8 Court no later than **June 10, 2010**. Should defendants wish to file a response, they should do so no  
9 later than **June 24, 2010**. The parties are directed to appear for a show cause hearing on **July 9,**  
10 **2010, at 1:30 p.m.** in Courtroom 3, 17th Floor, United States Courthouse, 450 Golden Gate  
11 Avenue, San Francisco, California.

12 The motion hearing set for **May 6, 2010**, is hereby vacated.

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15 IT IS SO ORDERED.

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17 Dated: 05/03/2010

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20 RICHARD SEEBORG  
21 UNITED STATES DISTRICT JUDGE