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4 IN THE UNITED STATES DISTRICT COURT  
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA

6 MARC OLIN LEVY

7 Plaintiff,

8 vs.

9 COMERICA BANK,

10 Defendant.  
11 \_\_\_\_\_/

No. CV 12-01296 MEJ

**ORDER DISMISSING CASE**

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13 On April 10, 2012, the Court granted Plaintiff's application to proceed in forma pauperis and  
14 dismissed his complaint with leave to amend. Dkt. No. 6. The Court ordered Plaintiff to file any  
15 amended complaint by May 8, 2012, and warned him that failure to file an amended complaint may  
16 result in the dismissal of this case with prejudice. As Plaintiff failed to file an amended complaint,  
17 the Court ordered him to show cause by June 28, 2012, why this case should not be dismissed for  
18 failure to prosecute. Dkt. No. 7. The Court informed Plaintiff that it may dismiss the case if he  
19 failed to file a responsive pleading. Plaintiff has failed to respond.

20 Under Federal Rule of Civil Procedure 41(b), failure to comply with a court order can  
21 warrant dismissal. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). In "determining  
22 whether to dismiss a case for failure to comply with a court order, the district court must weigh five  
23 factors including '(1) the public's interest in expeditious resolution of litigation; (2) the court's need  
24 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
25 disposition of cases on their merits; and (5) the availability of less drastic alternatives.'" *Id.* at 1260-  
26 61 (quoting *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986)). Here, Plaintiff failed to  
27 comply with Court orders and deadlines, failed to respond to the order to show cause, and has made  
28 no appearance in this matter since the Court dismissed his complaint with leave to amend. Thus, as

1 there is no pending complaint, the Court finds that the *Ferdik* factors weigh in favor of dismissal and  
2 hereby DISMISSES this case WITHOUT PREJUDICE. The Clerk of Court shall close the file.

3 **IT IS SO ORDERED.**

4 Dated: July 3, 2012

  
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6 MARIA-ELENA JAMES  
7 United States Magistrate Judge  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 MARC OLIN LEVY,  
5 Plaintiff,

Case Number: CV12-1296 MEJ

**CERTIFICATE OF SERVICE**

6 v.

7 COMERICA et al,  
8 Defendant.

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
10 Court, Northern District of California.

11 That on July 3, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said  
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located  
14 in the Clerk's office.

14 Marc Olin Levy  
15 505 Cypress Avenue, #205  
16 South San Francisco, CA 94080

16 Dated: July 3, 2012

17 Richard W. Wiekling, Clerk  
18 By: Rose Maher, Deputy Clerk

United States District Court  
For the Northern District of California