

1 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for
2 failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)
3 (dismissal for lack of prosecution and failure to comply with local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey a
5 court order, or failure to comply with local rules, the court must consider several factors: (1)
6 the public's interest in expeditious resolution of litigation; (2) the court's need to manage its
7 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
8 cases on their merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d
9 at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-
10 61; *Ghazali*, 46 F.3d at 53.

11 In the instant case, the court finds that the first two factors, the public's interest in
12 expeditiously resolving this litigation and the court's interest in managing the docket, weigh in
13 favor of dismissal. The third factor, risk of prejudice to defendants, also weighs in favor of
14 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay in
15 filing a pleading ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542
16 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy favoring disposition of cases
17 on their merits – is greatly outweighed by the factors in favor of dismissal discussed herein.
18 Finally, a court's warning to a party that his failure to obey the court's order will result in
19 dismissal satisfies the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262;
20 *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. The court's order requiring
21 plaintiff to pay the full filing fee within thirty days expressly stated: "It is further ordered that this
22 action will be dismissed without prejudice unless plaintiff pays the \$400.00 filing fee in full
23 within thirty (30) days of entry of this order." (ECF No. 9 at 2). Thus, plaintiff had adequate
24 warning that dismissal would result from his noncompliance with the court's order to pay the
25 full filing fee within thirty days.

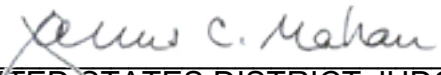
26 It is therefore ordered that this action is dismissed without prejudice based on plaintiff's
27 failure to pay the \$400.00 filing fee in compliance with this court's December 1, 2016, order.

28 It is further ordered that the motion to issue summons (ECF No. 10) is denied.

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It is further ordered that the motion for reconsideration (ECF No. 11) is denied.¹
It is further ordered that the clerk of court shall enter judgment accordingly.

DATED: January 6, 2017.


UNITED STATES DISTRICT JUDGE

¹ To the extent that plaintiff is attempting to challenge his three strikes status, the court denies the motion for reconsideration because plaintiff has three strikes.