

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

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

12 Here, the first two factors, the public's interest in expeditiously resolving this litigation
13 and the court's interest in managing the docket, weigh in favor of dismissal. The third factor,
14 risk of prejudice to the defendants, also weighs in favor of dismissal because a presumption of
15 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court
16 or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The
17 fourth factor, public policy favoring disposition of cases on their merits, is greatly outweighed by
18 the factors in favor of dismissal. Finally, a court's warning to a party that his failure to obey the
19 order will result in dismissal satisfies the "consideration of alternatives" requirement. *Ferdik*,
20 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. Judge Foley's
21 order requiring Johnson to file an application to proceed *in forma pauperis* or pay the filing fee
22 within 30 days expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff fails to timely
23 comply with this order, the Court shall dismiss this case without prejudice." ECF No. 10 at 2.

1 Thus, Johnson had adequate warning that dismissal would result from his noncompliance with
2 Judge Foley's order.

3 It is therefore ordered that this action is dismissed without prejudice based on Johnson's
4 failure to file an application to proceed *in forma pauperis* for non-prisoners or pay the full filing
5 fee in compliance with Judge Foley's January 22, 2019, order.

6 It is further ordered that the Clerk of Court shall close the case and enter judgment
7 accordingly.

8 Dated: February 27, 2019.

9
10 
11 _____
12 ANDREW P. GORDON
13 UNITED STATES DISTRICT JUDGE
14
15
16
17
18
19
20
21
22
23