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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	KINGSBURG APPLE PACKERS, INC. dba) Case No.: 1:09-cv-00901 - AWI - JLT
12	KINGSBURG ORCHARDS, et al.,)) ORDER TO INTERVENOR PLAINTIFF
13	Plaintiffs,	SPECTRUM PRODUCE DISTRIBUTING TOSHOW CAUSE WHY THE INTERVENOR
14	v.) COMPLAINT SHOULD NOT BE DISMISSED) FOR FAILURE TO PROSECUTE
15	BALLANTINE PRODUCE CO., INC., a California corporation, et al.,)))))))))))))))))))
16	Defendants.)
17) _)
18	SPECTRUM PRODUCE DISTRIBUTING,))
19 20	Intervenor Plaintiff,))
20	V.))
22	BALLANTINE PRODUCE CO., INC., a California corporation, et al.,)))
23	Defendants.)
24)
25	On September 29, 2009, Spectrum Produce Distributing ("Spectrum") filed a motion to	
26	intervene, seeking leave to file a claim out of time. (Doc. 108). The motion was granted by the Court	
27	(Doc. 144), and Spectrum filed an intervenor complaint on February 11, 2010. (Doc. 148). Spectrum	
28	identified the following defendants in its intervenor complaint: Ballantine Produce Co., Inc.; Vergil E.	

Rasmussen; David S. Albertson; Eric Albertson; Jerry DiBuduo; and Babijuice Corporation of
California, Inc. *Id.* at 2-3. The defendants filed their answer to the intervenor complaint on February
22, 2010. (Doc. 155). Since the filing of the answer, Spectrum has not prosecuted its complaints
against the defendants.

The Ninth Circuit explained, "District courts have inherent power to control their dockets," and in exercising that power, a court may dismissal an action. *Thompson v. Housing Authority of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). Consequently, a court may dismiss an action based on a party's failure to prosecute an action or failure to obey a court order, or failure to comply with local rules. *See, e.g., Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal, in part, for failure to prosecute).

Accordingly, Spectrum is **ORDERED** to show cause <u>within five court days</u> of the date of service of this Order why the intervening action should not be dismissed for failure prosecute its claims or file a request for dismissal within this same time period.

IT IS SO ORDERED.

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Dated:September 28, 2012/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE