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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DUBRIN, et al., Plaintiffs, v. STAINER, et al., Defendants.

Case No. 1:11-cv-01484-DAD-JLT (PC)

**FINDINGS AND RECOMMENDATIONS
TO DISMISS PLAINTIFFS JOAQUIN
CORONADO AND AARON PRANGE FOR
THEIR FAILURE TO PROSECUTE THIS
ACTION**

(Docs. 155, 159, 160)

21-DAY DEADLINE

Plaintiffs’ counsel, Mark Ravis, filed a motion to withdraw from representation of Joaquin Coronado and Aaron Prange. (Doc. 155.) As of the date, Mr. Ravis filed his motion, he reported that he has spent several months trying to contact them but received no response to correspondence sent to each of their last known addresses. (*Id.*, at 3.) Mr. Ravis’ motion to withdraw from their representation was granted on February 14, 2017, in an order which also required Mr. Coronado and Mr. Prange to show cause within twenty-one days why they should not be dismissed from this action for their apparent abandonment and failure to prosecute it (“OSC”). (Doc. 160.)

Subsequently, Mr. Coronado sent a signed Payee Data Record to Mr. Ravis. (Doc. 166.) Mr. Ravis submitted a status report advising of this and that Mr. Coronado’s mother informed him that she would immediately get Mr. Coronado to sign the settlement agreement. (*Id.*)

1 However, Mr. Coronado has not submitted anything in response to the OSC and there is no
2 showing he has executed the settlement agreement.

3 The Court has the inherent power to control its docket and may, in the exercise of that
4 power, impose sanctions where appropriate, including dismissal of the action. *Bautista v. Los*
5 *Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000). In determining whether to dismiss an action
6 for failure to comply with a pretrial order, the Court must weigh "(1) the public's interest in
7 expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of
8 prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and
9 (5) the availability of less drastic sanctions." *In re Phenylpropanolamine (PPA) Products*
10 *Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006) (internal quotations and citations
11 omitted). These factors guide a court in deciding what to do and are not conditions that must be
12 met in order for a court to take action. *Id.* (citation omitted).

13 Joaquin Coronado and Aaron Prange are no longer prosecuting this action despite being
14 notified of the requirement to respond via the OSC which issued on February 14, 2017. The
15 Court cannot afford to expend additional resources in seeking to interest them in their own
16 litigation and it will not continue to delay a case over five years old due to their lack of interest.
17 Based on Plaintiff's failure to comply with or otherwise respond to the February 14, 2017 OSC,
18 there is no alternative but to dismiss them from the action for their failure to prosecute. *Id.* This
19 action can proceed no further without the cooperation of and compliance with court orders by
20 Joaquin Coronado and Aaron Prange. This action has lingered long enough and cannot remain
21 unprosecuted and idle on the Court's docket. *Id.*

22 Accordingly, the Court **RECOMMENDS** that Plaintiffs Joaquin Coronado and Aaron
23 Prange be dismissed from this action with prejudice for their failure to prosecute. *In re PPA*, 460
24 F.3d at 1226; Local Rule 110.

25 These Findings and Recommendations will be submitted to the United States District
26 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). **Within 21**
27 **days** after being served with these Findings and Recommendations, the parties may file written
28 objections with the Court. The document should be captioned "Objections to Magistrate Judge's

1 Findings and Recommendations." The parties are advised that failure to file objections within the
2 specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d
3 1153 (9th Cir. 1991).

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IT IS SO ORDERED.

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Dated: April 5, 2017

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE