



1 correspondence to Plaintiffs has been returned undeliverable. *See* Dkt. Entries at ECF Nos. 4, 5, 7,  
2 8, 10.

3 A court may dismiss an action based on a party's failure to prosecute an action. *Ferdik v.*  
4 *Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992). In determining whether to dismiss a claim for  
5 failure to prosecute or failure to comply with a court order, the court weighs the following factors: (1)  
6 the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;  
7 (3) the risk of prejudice to defendants/respondents; (4) the availability of less drastic alternatives; and  
8 (5) the public policy favoring disposition of cases on their merits. *Pagtalunan v. Galaza*, 291 F.3d  
9 639, 642 (9th Cir. 2002); *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). These factors are a guide  
10 and "are 'not a series of conditions precedent before the judge can do anything.'" *In re*  
11 *Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006)  
12 (quoting *Valley Eng'rs Inc. v. Elec. Eng'g Co.*, 158 F.3d 1051, 1057 (9th Cir. 1998)). Dismissal is  
13 appropriate "where at least four factors support dismissal, . . . or where at least three factors  
14 'strongly' support dismissal." *Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998)  
15 (quoting *Ferdik*, 963 F.2d at 1263).

16 Here, at least four factors favor dismissal. There is nothing in the record indicating that any  
17 Defendants have been served, Plaintiffs have not filed any notification regarding a change in address,  
18 and they have not prosecuted the case. This is not "expeditious litigation," and the court must keep  
19 the cases on its docket moving. Also, there is no risk of prejudice to Defendants.

20 Because no party has consented to or declined the undersigned's jurisdiction, the court **ORDERS**  
21 the Clerk to the Court to reassign this action to a district court judge. The court **RECOMMENDS**  
22 that the newly-assigned district court judge dismiss this action without prejudice for failure to  
23 prosecute. The March 28, 2013 show cause hearing is **VACATED**. Any party may file objections to  
24 this Report and Recommendation with the district judge within fourteen days after being served with  
25 a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); N.D. Cal. Civ. L.R. 72. Failure to file an  
26 objection may waive the right to review of the issue in the district court.

27 **IT IS SO ORDERED.**

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Dated: March 28, 2013

  
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LAUREL BEELER  
United States Magistrate Judge