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2
3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA
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6 JULIO SOLORZANO, et al.,

7 Plaintiffs,

No. C 13-4628 PJH

8 v.

**ORDER DISMISSING COMPLAINT
WITH LEAVE TO AMEND AND
VACATING HEARING**

9 OLGA MIRANDA, et al.,

10 Defendants.
11 _____/

12 Before the court is defendants' motion to dismiss, filed on November 21, 2013. In
13 their motion, defendants argue that the court lacks jurisdiction over plaintiffs' complaint, and
14 additionally, that the complaint fails to state a claim.

15 Although plaintiffs did not file a timely opposition to the motion, they did file a late
16 opposition on December 18, 2013, requesting that the court "allow the plaintiffs to procure
17 the proper legal representation and get an attorney and draft an amended complaint to the
18 court."

19 As an initial matter, the court agrees with defendants that the complaint, as currently
20 pled, fails to state a claim. No specific cause of action is clearly stated, and the facts
21 underlying plaintiffs' claim(s) are not clearly set forth. Moreover, it does appear that
22 defendants are correct in arguing that this court lacks jurisdiction over plaintiffs' claims, and
23 that any court challenge to a labor union election must be brought by the Secretary of
24 Labor. See, e.g., Davis v. Turner, 395 F.2d 671 (9th Cir. 1968). Thus, defendants' motion
25 to dismiss is GRANTED. However, based on plaintiffs' request, the court will allow plaintiffs
26 an opportunity to retain counsel and to draft an amended complaint. Any amended
27 complaint must clearly set forth any asserted causes of action, and must establish that this
28 court has jurisdiction over any asserted claims. Plaintiffs shall have until **January 17, 2014**

1 to obtain counsel, and shall have until **February 14, 2014** to file an amended complaint in
2 accordance with this order.

3 The January 8, 2014 hearing on defendants' motion to dismiss is VACATED.

4 **IT IS SO ORDERED.**

5 Dated: December 20, 2013

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PHYLLIS J. HAMILTON
United States District Judge

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