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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA

6 ERIC CHAVEZ, et al.,
7 Plaintiffs,

8 v.

9 GOLDEN STATE FC, LLC, et al.,
10 Defendants.
11

Case No. 15-cv-02186-KAW

**ORDER GRANTING STIPULATION OF
DISMISSAL**

Re: Dkt. No. 13

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13 On June 26, 2015, the parties to the above-captioned case filed a "Stipulation for an Order
14 Dismissing Entire Action," Dkt. No. 13, seeking dismissal of the individual named plaintiff's
15 claims with prejudice and dismissal of the class claims without prejudice.

16 Because the parties did not address the factors set forth in *Diaz v. Trust Territory of the*
17 *Pacific Islands*, 876 F.2d 1401 (9th Cir. 1989), the Court ordered the parties to file a brief
18 addressing those factors, along with any declarations that would satisfy the Court that dismissal is
19 appropriate in this case. (July 17, 2014 Order, Dkt. No. 17.) On July 24, 2015, the parties filed
20 their brief, along with a declaration from J. Jason Hill, co-counsel for the named plaintiff and the
21 prospective class. (Supp. Br., Dkt. No. 13; Hill Decl., Dkt. No. 18-1.)

22 Federal Rule of Civil Procedure 23(e) states that the "claims, issues, or defenses of a
23 certified class may be settled, voluntarily dismissed, or compromised only with the court's
24 approval." The Ninth Circuit has extended this court approval requirement to settlements made
25 before a class has been certified. *Diaz*, 876 F.2d at 1408. It has stressed, however, that a "court's
26 duty to inquire into a settlement or dismissal differs before and after certification" because, before
27 certification, the risk of prejudice to absent class members is significantly lower. *Id.* (noting that
28 pre-certification dismissals do not require "the kind of substantive oversight required when

1 reviewing a settlement binding upon the class").

2 To determine whether pre-certification settlement or dismissal is appropriate, the court
3 must inquire into possible prejudice resulting from:

4 (1) class members' possible reliance on the filing of the action if they are likely to
5 know of it either because of publicity or other circumstances, (2) lack of adequate
6 time for class members to file other actions, because of a rapidly approaching
7 statute of limitations, (3) any settlement or concession of class interests made by
8 the class representative or counsel in order to further their own interests.

9 Diaz, 876 F.2d at 1408.

10 Having reviewed the parties' submission, the Court finds that the risk of possible prejudice
11 to potential class members is slight, if not non-existent. First, Mr. Hill is not aware of any
12 significant news coverage regarding this case, and he has not received any inquiries from potential
13 class members. (Id.) Under these circumstances, the Court finds that it is unlikely that potential
14 class members knew about this action and relied on it for vindication of their own rights. Second,
15 the parties seek to dismiss the class claims without prejudice, which would allow any absent class
16 members to assert their own claims in a separate action. The class action tolling doctrine ensures
17 that these claims would not be time-barred. See Lyons v. Bank of America, N.A., No. C 11-1232
18 CW, 2012 WL 5940846, at * 2 (N.D. Cal. Nov. 27, 2012) (citations omitted). Third, "[n]o
19 consideration or settlement was made, and neither [the named plaintiff] nor any of the proposed
20 class counsel received any money for the voluntary dismissal," see Hill Decl. ¶ 5, which
21 diminishes any risk that dismissal is sought to further the interests of the class representative or
22 counsel.

23 For the reasons set forth above, the Court GRANTS the parties' stipulation. The named
24 plaintiff's individual claims are DISMISSED WITH PREJUDICE. All class claims are
25 DISMISSED WITHOUT PREJUDICE.

26 IT IS SO ORDERED.

27 Dated: 07/27/2015

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KANDIS A. WESTMORE
United States Magistrate Judge