



1 second amended complaint is granted as unopposed.<sup>1</sup>

2 Here, plaintiffs have failed to comply with the Federal Rules of Civil Procedure, the civil  
3 local rules, and the October 29, 2010 Order to Show Cause. *See* Rule 41(b)(defendant may move to  
4 dismiss the action if plaintiff fails to prosecute or to comply with these rules or a court order). *See*  
5 *also, Ferdik v. Bonzalet*, 963 F.2d 1258, 1260 (9th Cir. 1992).

6 In *Ghazali v. Moran*, the Ninth Circuit held that in exercising its discretion to dismiss an  
7 action for failing to comply with a district court’s local rules or orders, the court is “required to  
8 weigh several factors: ‘(1) the public’s interest in expeditious resolution of litigation; (2) the court’s  
9 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
10 disposition of cases on their merits; and (5) the availability of less drastic sanctions.’” *Ghazali v.*  
11 *Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam).

12 The first and second factors favor dismissal. Plaintiffs did not oppose the motion to dismiss  
13 the second amended complaint and did not respond to the October 29, 2010 Order to Show Cause.  
14 Plaintiffs’ failure to respond to the motion and the court’s order undermines the court’s ability to  
15 expeditiously resolve litigation and the court’s need to manage its docket.

16 The third factor favors dismissal. Plaintiffs have not proffered any excuse for their failure to  
17 oppose, or otherwise, respond to the motion to dismiss or the court’s order. Defendant OneWest  
18 seeks an expeditious resolution of the litigation and plaintiffs’ failure to respond delays a prompt  
19 resolution of the action.

20 The fourth factor which favors disposition of the case on its merits, however, weighs against  
21 dismissal. *See Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002)(“Public policy favors  
22 disposition of cases on the merits. Thus, this factor weighs against dismissal.”).

23 The fifth factor favors dismissal. Plaintiffs failed to oppose, or otherwise, respond to, the  
24 motion to dismiss and the court’s order. The October 29, 2010 Order to Show Cause expressly  
25 sought a response as to why the motion to dismiss should not be granted for a failure to oppose it.  
26 Plaintiffs did not respond.

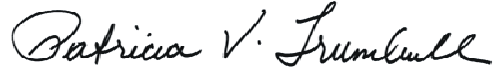
27 In balancing the factors set forth above, the court finds that dismissal is warranted and

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<sup>1</sup> The holding of this court is limited to the facts and particular circumstances underlying  
the present motion.

1 defendant OneWest's motion to dismiss the second amended complaint is granted.

2 IT IS SO ORDERED.

3 Dated: November 9, 2010



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5 PATRICIA V. TRUMBULL  
6 United States Magistrate Judge  
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