

1 At the hearing Mr. Yesk represented that he had not provided assistance to Plaintiffs to find
2 new counsel. Accordingly, the Court ordered that by December 7, 2012, Mr. Yesk file a
3 declaration: (1) affirming that he had referred Plaintiffs to the Federal Legal Assistance Self-Help
4 Center ("FLASH") for legal assistance (408-297-1480); and (2) explaining the steps he had taken
5 to assist Plaintiffs in finding new legal representation. The Court continued the hearing on Mr.
6 Yesk's Motion to Withdraw as Attorney to December 13, 2012 at 1:30 p.m. and ordered that Mr.
7 Yesk and Plaintiffs attend the hearing in person.

8 On November 29, 2012, the Court also issued an Order to Show Cause why this case should
9 not be dismissed with prejudice for failure to prosecute. The Court ordered Plaintiffs to: (1)
10 respond to the Order to Show Cause by reaffirming their interest in prosecuting this case and
11 explaining the status of their legal representation by December 10, 2012; (2) appear at the Order to
12 Show Cause hearing on December 13, 2012 at 1:30 p.m.; and (3) file a Consent or Declination to
13 Proceed Before a Magistrate Judge by December 7, 2012. The Order to Show Cause notified
14 Plaintiffs that their failure to respond to the Order to Show Cause and to appear at the December
15 13, 2012 hearing would result in dismissal of their case with prejudice for failure to prosecute.

16 On December 11, 2012, Mr. Yesk filed a withdrawal of his motion to be relieved as
17 counsel. ECF No. 36. However, because Plaintiffs had failed to respond to the Order to Show
18 Cause by December 10, 2012 as ordered, and failed to file a Consent or Declination to Proceed
19 Before a Magistrate Judge by December 7, 2012 as ordered, and because Mr. Yesk had failed to
20 file a declaration by December 7, 2012 as ordered, the Court, on December 12, 2012, issued an
21 Order stating that the withdrawal did not obviate the need for Mr. Yesk and Plaintiffs to appear for
22 the December 13, 2012 hearing on the Order to Show Cause. The Court explained that consistent
23 with the Order to Show Cause, Plaintiffs and Mr. Yesk were required to appear personally at the
24 hearing on December 13, 2012 at 1:30 p.m., and that failure to appear would result in dismissal of
25 this case with prejudice for failure to prosecute. ECF No. 37.

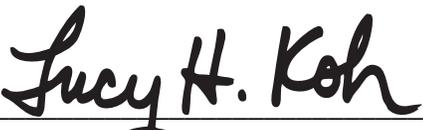
26 Neither Plaintiffs nor Mr. Yesk appeared at the December 13, 2012 hearing. Moreover,
27 Plaintiffs never filed a response to the Order to Show Cause, or a consent or declination to proceed
28 before a Magistrate Judge. Accordingly, the Court DISMISSES this case. However, in an

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abundance of caution, in the event that Mr. Yesk did not clearly communicate the Court's Orders to his clients, the dismissal is without prejudice. The Clerk shall close the file.

IT IS SO ORDERED.

Dated: December 13, 2012



LUCY H. KOH
United States District Judge