

1 that Plaintiff’s Complaint has failed to allege diversity jurisdiction or federal question
2 jurisdiction within the pending Complaint. Defendant further contends that Plaintiff’s
3 Complaint should be dismissed because the Complaint fails to allege any cause of action
4 or claim for relief and falls far short of the minimum pleading standard articulated in *Bell*
5 *Atlantic. Bell Atlantic Corp. v. Twombly*, (2007) 127 S. Ct. 1955, 1965.

6 A district court may properly grant an unopposed motion pursuant to a local rule
7 where the local rule permits, but does not require, the granting of a motion for failure to
8 respond. *See Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995) (affirming dismissal for
9 failing to oppose a motion to dismiss, based on a local rule providing that “[t]he failure
10 of the opposing party to file a memorandum of points and authorities in opposition to any
11 motion shall constitute consent to the granting of the motion”). Civil Local Rule 7.1
12 provides: “If an opposing party fails to file the papers in the manner required by Civil
13 Local Rule 7.1.e.2, that failure may constitute a consent to the granting of a motion or
14 other request for ruling by the court.” S.D. Cal. Civ. Local Rule 7.1(f)(3)(c). “Although
15 there is ... a [public] policy favoring disposition on the merits, it is the responsibility of
16 the moving party to move towards that disposition at a reasonable pace, and to refrain
17 from dilatory and evasive tactics.” *In re Eisen*, 31 F.3d 1447, 1454 (9th Cir. 1994)
18 (quoting *Morris v. Morgan Stanley & Co.*, 942 F.2d 648, 652 (9th Cir. 1991)) (affirming
19 dismissal for failure to prosecute).

20 The docket reflects that Plaintiff has failed to file an opposition as required by
21 Civil Local Rule 7.1.e.2. The Court construes Plaintiff’s failure to oppose the Motion to
22 Dismiss as “a consent to the granting of” the Motion to Dismiss. S.D. Cal. Civ. Local
23 Rule 7.1(f)(3)(c). The Court further concludes that “the public’s interest in expeditious
24 resolution of litigation,” “the court’s need to manage its docket,” and “the risk of
25 prejudice to the defendants” weigh in favor of granting the Motion to Dismiss for failure
26 to file an opposition. *Ghazali*, 46 F.3d at 53. Defendant’s Motion to Dismiss is granted.


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1 **III. Conclusion**

2 IT IS HEREBY ORDERED that the Motion to Dismiss is GRANTED. (ECF No.
3 5). The Complaint is DISMISSED without prejudice.

4 DATED: December 10, 2014

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6 **WILLIAM Q. HAYES**
7 United States District Judge

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