

1 the contrary, everything Plaintiffs have submitted suggests that either the federal government
2 or the entity itself is responsible for its customs and policies. There is no reason to believe
3 Plaintiffs can successfully amend to salvage their remaining claim. By noon on May 2,
4 Plaintiffs' counsel were to have filed an *ex parte* motion for leave to file a second amended
5 complaint. (See Docket no. 49.) But they have allowed that deadline to pass and have filed
6 nothing. This action is therefore subject to dismissal both for failure to prosecute and on the
7 merits.

8 Plaintiffs are represented by two attorneys, who have missed deadlines and
9 repeatedly disobeyed local rules and the Court's orders. Among the most frustrating of
10 counsel's many lapses has been their repeated failure to register for electronic filing and to
11 file documents electronically, as is required of all attorneys practicing before this Court. They
12 have ignored numerous warnings about their violations. (See Docket nos. 2, 11, 19, 21, 23,
13 32, 34, 36, 45, 46 (warning Plaintiffs' counsel of Civil Local Rule 5.4 violations, and
14 cautioning them regarding the consequences).) Their failure to file documents electronically
15 has caused chaos in the docket, resulting in the vacatur of two previous dismissals.
16 Plaintiffs' counsel were warned that if this action were dismissed a third time, the third
17 dismissal would not be vacated. (Docket no. 42 at 9:9–11.)

18 In an effort to impose order, the Court on March 8 required both Plaintiffs' attorneys
19 to register for electronic filing, and each was ordered to confirm that the other had registered
20 as required. (See Docket no. 37 at 3:8–15.) Nevertheless, attorney Goodman continued to
21 try to submit paper copies of documents. These included a motion for leave to amend that
22 was essentially a rehash of the one he filed on March 16, which had been denied on the
23 merits.

24 On April 28, the Court specifically ordered Plaintiffs' counsel to electronically file their
25 motion for leave to amend by noon on Tuesday, May 2, 2017, and said that no more
26 extensions would be granted. (Docket no. 49.) This was the latest in a string of stern
27 warnings to Plaintiffs' counsel. (See *also* Docket nos. 37, 38, 42, 49 (orders pointing out
28 Plaintiffs' counsel's violation of rules and orders, and giving increasingly serious cautions).)

1 May 2 has come and gone, and Plaintiffs have filed nothing.

2 The Court therefore deems Plaintiffs' remaining claim abandoned. The Court
3 recognizes that dismissal is a sanction of last resort. Nevertheless, in light of Plaintiffs'
4 counsel's refusal or inability to move forward with the case in spite of numerous warnings,
5 dismissal is the only reasonable option. See *Thompson v. Housing Auth.*, 782 F.2d 829,
6 831–32 (9th Cir. 1986) (per curiam).

7 As explained in detail in the Court's March 21 order, Defendants have already been
8 unfairly surprised and burdened several times by Plaintiffs' counsel's disobedience of the
9 Court's orders and the local rules. (Docket no. 42 at 7:19–9:11.) If the case is permitted to
10 linger on the docket, the County is very likely to continue to suffer such unfair prejudice.
11 Plaintiffs' counsel have also wasted judicial resources, created needless emergencies,
12 usurped control of the docket, and improperly sought special indulgences from the Court.
13 (*Id.*) Plaintiffs' counsel were specifically warned that lesser attempts to impose order had
14 been unsuccessful, and that if they continued their disobedience, dismissal appeared to be
15 the only remaining option. (*Id.* at 9:6–10.)

16 Although the Court is mindful of the public policy favoring disposition of the cases on
17 the merits, see *Thompson* at 831 (citing *Henderson v. Duncan*, 779 F.2d 1421, 1423–24),
18 Plaintiffs have escaped dismissal twice already on the basis of that policy, and the case is
19 no closer to resolution. Lesser methods of persuasion have proved to be in vain. At some
20 point, trying to resolve a case on the merits becomes impractical, and the Court finds that
21 in this case that time has come. Without finality, Defendants will be unfairly prejudiced and
22 the public interest will not be served. See *Ellis v. Dyson*, 421 U.S. 426, 440 n.6 (1975)
23 (noting the “powerful public interest in finality of litigation”); Fed. R. Civ. P. 1 (the rules
24 “should be construed, administered, and employed by the court and the parties to secure the
25 just, speedy, and inexpensive determination of every action and proceeding”). Considering
26 the factors set forth in *Thompson*, 782 F.2d at 831, the Court finds that dismissal is
27 appropriate.

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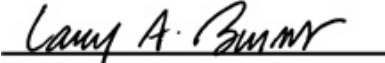
1 Finally, it does not appear that dismissing Plaintiffs' claim based on their attorneys'
2 neglect of the case is unfair. The chance of their showing that the County is responsible for
3 the Task Force's policies is remote. Without that, they cannot prevail. In all likelihood,
4 Plaintiffs' counsel have recognized that their clients have no claim, and they have chosen
5 not to amend because they realize they cannot do so successfully.

6 This action is **DISMISSED WITHOUT PREJUDICE, BUT WITHOUT LEAVE TO**
7 **AMEND**, for failure to prosecute, and for disobedience to the rules and to the Court's orders.
8 See Fed. R. Civ. P. 41(b); *Hells Canyon Preservation Council v. U.S. Forest Serv.*, 403 F.3d
9 683, 689 (9th Cir. 2005) (recognizing that a court may *sua sponte* dismiss for failure to
10 prosecute or to comply with applicable rules or the court's orders). Finally, even if the case
11 were not being dismissed for those reasons, the Court finds it would be subject to dismissal
12 on the merits, because Plaintiffs have never successfully stated a claim even after being
13 given multiple opportunities to do so.

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IT IS SO ORDERED.

DATED: May 4, 2017


HONORABLE LARRY ALAN BURNS
United States District Judge