

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gonzalez Mondragon v. R.T. Farm Labor, Inc.

No. 1:22-cv-01259-JLT-BAM (E.D. Cal. Aug. 14, 2025) · No. 1:22-cv-01259-JLT-BAM · Decided August 14,
2025

OPINION

Gonzalez Mondragon v. R.T. Farm Labor, Inc.

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 CLAUDIA GONZALEZ MONDRAGON, Case No. 1:22-cv-01259-JLT-BAM

GUSTAVO GUSMAN, and ALAN

12 REYES, on behalf of themselves and other ORDER PARTIALLY DISCHARGING similarly
situated, ORDER TO SHOW CAUSE 13 Plaintiffs, (Doc. 101) 14

v. FINDINGS AND RECOMMENDATIONS

15 REGARDING MOTION TO DISMISS

R T FARM LABOR INC, et al., PLAINTIFFS' COMPLAINT AS TO

16 DEFENDANT T&C VINEYARDS

Defendants. PURSUANT TO FRCP 41(b) 17 (Doc. 103) 18 19 Plaintiffs Claudia Gonzalez
Mondragon, Gustavo Gusman, and Alan Reyes ("Plaintiffs") 20 seek to hold defendants R T Farm
Labor, Inc., T&C Vineyards, Ricardo Trevino Jr., Ricardo 21 Gomez Trevino, and Harold
Chuhlantseff liable for violations of California wage and hour laws 22 and the federal Migrant and
Seasonal Agricultural Worker Protection Act. (See Doc. 23.) 23 Currently before the Court are (1)
the Court's Order to Show Cause issued on June 2, 24 2025, directing Plaintiffs to show cause
why sanctions, including dismissal, should not be 25 imposed for the failure to file timely status
reports, and for the failure to prosecute this action, 26 including failure to any motion for class
certification, (Doc. 101), and (2) Defendant T&C 27 Vineyards' ("T&C") motion to dismiss
Plaintiffs' complaint against it on the grounds that 28 Plaintiffs have failed to comply with the
Court's orders, including the failure to file required 1 status reports and the failure to file a motion
for class certification, and have failed to prosecute 2 this action against T&C. (Doc. 103.) The
motion to dismiss was referred to undersigned for the 3 preparation of findings and
recommendations. (Doc. 104.) 4 The show cause order and motion to dismiss came before the
Court for hearing on August 5 8, 2025. Counsel Cody Alexander Bolce appeared by Zoom video
on behalf of Plaintiffs. 6 Counsel Rissa Stuart appeared by Zoom video on behalf of Defendant
T&C Vineyards. 7 Defaulted Defendants R T Farm Labor, Inc., Ricardo Trevino Jr., Ricardo

Gomez Trevino, and 8 Harold Chuhlantseff did not appear. 9 Having considered the briefing, the arguments of counsel, and the record in this action, the 10 Order to Show Cause will be discharged only as to Defendants R T Farm Labor, Inc., Ricardo 11 Trevino Jr., Ricardo Gomez Trevino, and Harold Chuhlantseff. Further, the Court will 12 recommend that T&C's motion to dismiss be granted and that T&C be dismissed from this action 13 with prejudice.

14 RELEVANT PROCEDURAL BACKGROUND

15 Plaintiffs initiated this action on October 3, 2022, against Defendants R T Farm Labor, 16 Inc. ("R T Farm Labor"), Ricardo Trevino Jr., Ricardo Gomez Trevino, and Harold Chuhlantseff 17 on October 3, 2022. (Doc. 1.) Following service of the complaint, and at Plaintiffs' request, the 18 Clerk of the Court entered default against Ricardo Gomez Trevino, R T Farm Labor, and Ricardo 19 Trevino Jr. on April 17, 2023. (Doc. 15.) 20 On September 7, 2023, the Court granted Plaintiffs leave to amend their complaint to add 21 T&C as a defendant and to add a claim for penalties under the Private Attorneys General Act 22 ("PAGA") against Defendants Harold Chuhlantseff and T&C. (Doc. 22.) Plaintiffs filed their 23 first amended complaint on September 8, 2023. (Doc. 23.) 24 On November 27, 2023, T&C answered the amended complaint and filed a crossclaim for 25 breach of contract, indemnity, apportionment of fault, and misrepresentation against Defendants 26 R T Farm Labor, Ricardo Trevino Jr., Ricardo Gomez Trevino, and Harold Chuhlantseff. (Docs. 27 28, 29.) On January 8, 2024, T&C filed an amended answer to the complaint. (Doc. 41.) 28 On February 6, 2024, at the request of T&C, the Clerk of the Court entered default against 1 counter-defendants R T Farm Labor, Ricardo Trevino Jr., Ricardo Gomez Trevino, and Harold 2 Chuhlantseff. (Doc. 47.) 3 On March 13, 2024, at Plaintiffs' request, the Clerk entered default against Defendant 4 Chuhlantseff. (Doc. 50.) 5 On March 19, 2024, the Court held a status conference with Plaintiffs and T&C. (Doc. 6 52.) At that time, T&C informed the Court that it had provided documents obtained from R T 7 Labor regarding T&C's 2022 contracting with R T Farm Labor. (Doc. 52.) 8 On March 28, 2024, the Court issued a scheduling order setting class certification 9 deadlines, with a discovery cutoff and motion filing deadline of February 27, 2025. (Doc. 56) 10 On May 30, 2024, Plaintiffs filed a motion to compel compliance with a February 26, 11 2024 subpoena served on defaulted Defendant R T Farm Labor to produce documents, 12 information, or objects or to permit inspection of premise pursuant to Federal Rule of Civil

13 Procedure 45. (Doc. 63.) Following Plaintiffs' supplemental briefing, on July 15, 2024, the 14 Court construed Plaintiffs' motion to compel as a request for an order to show cause why R T 15 Farm Labor should not be held in contempt. (Doc. 68.) The Court granted the request and 16 directed R T Farm Labor to appear and show cause why it should not be held in contempt for 17 failure to comply with Plaintiffs' subpoena. (Doc. 68.) 18 The Court held a show cause hearing on August 22, 2024. Defaulted Defendant R T Farm 19 Labor did not appear at the hearing or otherwise respond to the show cause order. The Court 20 therefore certified facts for the district judge and issued findings and recommendations that 21 recommended R T Farm Labor be held in

contempt. (Doc. 72.) R T Farm Labor did not file any 22 objections to the findings and recommendations and did not avail itself of the purge conditions 23 identified by the Court. The district judge held a contempt hearing on January 6, 2025, and R T 24 Farm Labor again failed to appear. The district court therefore adopted the findings and 25 recommendations, held R T Farm Labor in contempt, and ordered R T Farm Labor to pay 26 monetary sanctions for each day in contempt. (Doc. 86.) The district court also directed 27 Plaintiffs to file a status report every 14 days informing the Court of whether R T Farm Labor had 28 complied with the subpoena and whether an extension of the daily fine was necessary. (Id.) 1 2 On January 21, 2025, Plaintiffs filed a status report stating the R T Farm Labor had not 3 complied with the subpoena. (Doc. 87.) Thereafter, on February 3, 2025, the district court issued 4 an amended order requiring Plaintiffs to personally serve the contempt order on R T Farm Labor, 5 Inc. (Doc. 89.) 6 On February 4, 2025, the Court held a mid-discovery status conference. (Doc. 91.) 7 Plaintiffs claimed they did not have the discovery needed for class certification because of R T 8 Labor's failure to respond to the subpoena, although T&C had provided documents. Plaintiffs 9 requested vacating or continuing the class certification and discovery motion deadlines given the 10 pending contempt order as R T Farm Labor. T&C reported that it had produced all relevant 11 documents, its discovery responses were sufficient to calculate potential damages as to T&C 12 regarding the number of employees and number of workdays, and that T&C was ready to discuss 13 settlement in this matter. The Court expressly noted that Plaintiffs could not continue prolonging 14 class certification as to T&C if it had complied with discovery requests. Plaintiffs agreed to 15 discuss settlement and indicated their intention to send a settlement demand to T&C. Based on 16 Plaintiffs' request, the Court continued the class certification deadlines, with a discovery cutoff 17 and motion filing deadline of March 28, 2025. (Doc. 91.) 18 Plaintiffs filed a status report on February 18, 2025, which indicated that they had not 19 received a response from R T Labor to their subpoena. (Doc. 94.) On February 5, 2025, the 20 Court directed Plaintiffs, in their status reports, to inform the Court of the status of personal 21 service of the amended order finding R T Farm Labor Inc in contempt. (Doc. 93.) 22 Plaintiffs filed status reports on February 18 and February 21, 2025, indicating Plaintiffs 23 had not received a response from R T Farm Labor and detailing their attempts at personal service. 24 (Docs. 94, 96.) In their February 21, 2025 status report, Plaintiffs indicated they would continue 25 to attempt personal service on R T Farm Labor and, if those attempts were unsuccessful, then 26 Plaintiff would request permission for substituted service of process through the California 27 Secretary of State or via certified mail. (Doc. 96.) 28 On February 27, 2025, the Court held a status conference to assess the parties' progress 1 regarding settlement and class certification. Plaintiffs' counsel informed the Court that the parties 2 had decided to mediate the claims, but that Plaintiffs would likely file a motion for class 3 certification or pursue their PAGA claims. T&C informed the Court that the parties were 4 discussing proposed mediators. Given the upcoming March 28, 2025 deadline for class 5 certification discovery and class certification motions, the Court reminded the parties that 6

settlement discussions were not good cause for continuing scheduled dates. (Doc. 98.) 7 Plaintiffs filed status reports on March 4 and March 18, 2025, indicating their attempts to 8 personally serve R T Farm Labor with the contempt order were unsuccessful and they would 9 request permission for substituted service of process through the California Secretary of State or 10 via certified mail. (Docs. 99, 100.) Plaintiffs ceased filing status reports after March 18, 2025. 11 (See generally Docket.)

12 ORDER TO SHOW CAUSE

13 On June 2, 2025, the Court issued an Order to Show Cause based on Plaintiffs' failure to 14 file status reports and fail to file a motion for class certification. (Doc. 101.) The order stated: 15 Plaintiffs were ordered to file a status report every fourteen (14) days informing 16 the Court of whether R T Farm Labor Inc. had complied with the subpoena (Doc. 89) and the status of personal service of the Court's Amended Order Finding 17 Defendant R T Farm Labor in Contempt (Doc. 93). Plaintiffs last filed a status report on March 18, 2025, and indicated they would request permission for 18 substituted service. (See Doc. 100.) No additional status report or motion for substituted service has been filed. Additionally, the deadline for Plaintiffs to file 19 any motion for class certification has passed (Doc. 91), and no motion or request for modification of the scheduling order has been filed. Accordingly, no later 20 than June 20, 2025, Plaintiffs are ordered to show cause, in writing, why sanctions, including dismissal, should not be imposed for the failure to file timely 21 status reports and for the failure to prosecute this action. 22 (Doc. 101.) 23 On June 23, 2025, Plaintiffs filed an untimely response to the show cause order. (Doc. 24 102.) Plaintiffs indicated: (1) Defaulted Defendant Ricardo Trevino Jr. filed a bankruptcy 25 petition on November 21, 2024; (2) after the Court found R T Farm Labor in contempt, Plaintiffs 26 reportedly considered moving for substitute service after attempts at personal service failed and 27 file class for class certification, but "out of an abundance of caution, Plaintiffs filed a motion for 28 relief of the automatic stay issued after Defaulted Defendant Trevino Jr. filed his bankruptcy 1 petition;" and (3) Plaintiffs' motion for relief from the stay was set to be heard on July 9, 2025. 2 (Doc. 102.) Plaintiffs requested that the show cause order be vacated or that they be allowed to 3 seek leave to file a motion for relief from the show cause order "due to a mistake arising from 4 oversight." (Id. at 2.) Plaintiffs' counsel claimed that the show cause response deadline was not 5 calendared due to an unspecified "administrative error." (Doc. 102-1, Declaration ¶ 5.) 6 Plaintiffs' response does not explain why they failed to file status reports, why they failed 7 to file any motion for class certification with respect to T&C as required by the Scheduling Order, 8 and why they failed to file a motion or request to modify the scheduling order regarding the class 9 certification motion deadline. Plaintiffs' response also does not explain how the bankruptcy 10 proceeding involving defaulted Defendant Ricardo Trevino Jr. prevented them from taking any of 11 these actions. Notwithstanding the deficient response, and because Plaintiffs pursued a defaulted 12 defendant in Bankruptcy, the Court will discharge the show cause order with respect to the 13 defaulted defendants and will order Plaintiffs to provide a detailed status report regarding

their 14 actions relative to the bankruptcy proceedings. However, for the reasons explained below, the 15 Court will not discharge the order to show cause with respect to T&C. Rather, as an appropriate 16 sanction, the Court will recommend dismissal of T&C from this action with prejudice.

17 MOTION TO DIMISS

18 On June 24, 2025, T&C filed a motion to dismiss the complaint “on the grounds that 19 Plaintiffs have failed to comply with the Court’s orders, including the failure to file required 20 status reports, failure to file a motion for class certification, and further, have failed to prosecute 21 this action against T&C Vineyards.” (Doc. 103 at 1.) 22 Parties’ Positions 23 T&C contends that after they appeared and engaged in the early stages of litigation “the 24 action has since devolved into an untenable state of procedural neglect as a direct result of 25 Plaintiff’s continued failure to comply with court orders and litigate the case in good faith.” 26 (Doc. 103 at 3.) T&C points to Plaintiffs’ failure to file biweekly status reports after March 18, 27 2025, Plaintiffs’ failure to file any request for substituted service on R T Farm Labor despite their 28 representation indicating that they would do so, and Plaintiffs’ failure to meet the deadline to file 1 a class certification motion, seek an extension of time, or attempt to justify their noncompliance. 2 (Id. at 4.) As to the latter point, T&C asserts that Plaintiffs have abandoned all class claims. 3 T&C additionally notes that the Court directed the parties to engage in settlement discussions in 4 February 2025, but limited settlement discussions were exchanged since that time. (Id.)

5 Additionally, T&C cites deficiencies in Plaintiffs’ response to the show cause order, 6 including that (1) Plaintiffs’ missed the response deadline without good cause, (2) Plaintiffs failed 7 to explain why R T Farm Labor filing for bankruptcy¹ was never raised in any of its status reports 8 filed with the Court between November 21, 2024, and March 18, 2025, nor during the February 9 27, 2025 status conference; and (3) defense counsel received a notice of bankruptcy, and in 10 March 2025 an order of discharge, as to debtors Richard Trevino, Jr. and Indira Judith Trevino, 11 but not a notice of bankruptcy for R T Farm Labor. (Doc. 103 at 4-5.) 12 T&C argues that it has been left in a state of legal uncertainty based on Plaintiffs’ 13 prolonged and unexplained period of inaction. T&C further argues that despite its cooperation 14 and participation in discovery, Plaintiffs’ lack of diligence has stalled the case entirely; it has 15 been over 20 months since service of the first amended complaint and no trial date has been set. 16 (Doc. 103 at 5-6.) 17 In opposition, Plaintiffs claim that the motion to dismiss is premature and unfounded 18 given the posture of this case and the difficulties they have faced in prosecuting this action. (Doc. 19 106 at 2.) Plaintiffs also claim that they have diligently pursued discovery to substantiate their 20 claim, detailing their efforts to seek contempt against defaulted Defendant R T Farm Labor. They 21 assert that they were prepared to move for substituted service of the contempt order, but 22 ultimately filed a motion for relief from the automatic bankruptcy stay in defaulted Defendant 23 Trevino Jr.’s related bankruptcy. (Id.) To that end, Plaintiffs purportedly filed a motion for relief 24 from the automatic bankruptcy stay on June 10, 2025, which was set to be heard on July 9,

2025. 25 They also planned to participate in a scheduling conference for Plaintiffs' adversary proceedings 26 27 1 Plaintiffs cited the bankruptcy of Ricardo Trevino Jr., not R T Farm Labor, Inc. Nonetheless, 28 the status reports failed to inform the Court of Ricardo Trevino Jr.'s bankruptcy 1 on July 17, 2025, and indicated that they would complete initial disclosures in that proceeding by

2 July 10, 2025.

3 Plaintiffs argue that any perceived delay in prosecuting this action by T&C "is due to 4 factors outside Plaintiffs' control, such as not being able to obtain the necessary documents and 5 information due to default by R T Farm Labor, Inc., challenges in securing personal service after 6 Plaintiffs attempted to utilize the Court's subpoena powers, and defendants invoking bankruptcy 7 instead of litigating the merits of this action." (Doc. 106 at 5.) Plaintiffs argue that they should 8 not be penalized for delays when proceedings were reasonably stayed due to a related bankruptcy. 9 Legal Standard 10 Federal Rule of Civil Procedure 41(b) allows the Court to dismiss an action if "the 11 plaintiff fails to prosecute or to comply with . . . a court order." Fed. R. Civ. P. 41(b). Similarly, 12 this District's Local Rule 110 states that "[f]ailure of counsel or of a party to comply. . . with any 13 order of the Court may be grounds for imposition by the Court of any and all sanctions authorized 14 by statute or Rule or within the inherent power of the Court." L.R. 110. 15 The Court must analyze five factors "before dismissing a case pursuant to Rule 41(b): 'the 16 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; 17 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on 18 their merits; and (5) the availability of less drastic alternatives.'" (quoting *Yourish v. Cal. 19 Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999)). 20 Discussion 21 1. The public's interest in expeditious resolution of litigation 22 As to the first factor, "[t]he public's interest in expeditious resolution of litigation always 23 favors dismissal." *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002); see also *Ter- 24 Galstanyan v. County of Kern*, No. 1:22-cv-00645-JLT-CDB, 2024 WL 2747628, at *2 (E.D. Cal.

25 May 29, 2024).

26 T&C argues that this factor, which always favors dismissal, does so here given Plaintiffs' 27 persistent and unjustified delays. Because Plaintiffs do not address this factor in their opposition, 28 T&C additionally asserts that Plaintiffs have conceded this factor favors dismissal. 1 Here, the Court had set a schedule for class certification, to which both Plaintiffs and T&C 2 had agreed. Thereafter, at a status conference with the Court, T&C indicated it had complied 3 with discovery and produced relevant discovery such that claims against it could be determined 4 and class certification motion could be brought. (Doc. 91.) Plaintiffs attempt to justify the delay 5 by arguing they were pursuing one defendant in bankruptcy. Nonetheless, the Bankruptcy 6 proceeding does not excuse failure to prosecute as to T&C. Given Plaintiffs' failure to advance 7 this case with respect to T&C (or R T Farm Labor) and allowing the class certification motion 8 deadline to pass without comment, the Court finds that this factor weighs in favor of dismissal. 9

2. The court's need to manage its docket 10 District courts have the inherent power to control their dockets and "[i]n the exercise of 11 that power they may impose sanctions including, where appropriate, ... dismissal." Thompson v. 12 Hous. Auth., 782 F.2d 829, 831 (9th Cir. 1986). Further, "[i]t is incumbent upon the Court to 13 manage its docket without being subject to routine noncompliance of litigants[.]" Pagtalunan, 14 291 F.3d at 642 (citation omitted). 15 T&C argues that Plaintiffs' persistent and unjustified failure to comply with Court orders 16 has severely undermined the Court's ability to manage its docket. T&C cites Plaintiffs' failure to 17 file biweekly status reports, their failure to file a motion for substituted service after representing 18 that they would seek leave to do so, and their failure to file a motion for class certification by the 19 Scheduling Order deadline. As to this latter point, T&C notes that Plaintiffs did not request an 20 extension of the class certification deadline nor offer any justification. T&C claims that 21 Plaintiffs' conduct has made it impossible for the Court to move the matter toward resolution. 22 T&C additionally asserts that Plaintiffs have conceded this factor favors dismissal because they 23 did not address this factor in their opposition. 24 The Court finds that this factor weighs in favor of dismissal. As pointed out by T&C, 25 Plaintiffs failed to file biweekly status reports ordered by the Court after March 2025, failed to 26 file a motion for substituted service despite their representations that they would do so, and failed 27 to comply with the Court's Scheduling Order deadline for filing a motion for class certification. 28 1 Additionally, and of critical importance to the Court's management of its docket, 2 Plaintiffs never notified the Court of the bankruptcy proceedings involving defaulted Defendant 3 Ricardo Trevino Jr. in any respect. Defaulted Defendant Ricardo Trevino Jr. reportedly filed a 4 bankruptcy petition on November 21, 2024, and Plaintiffs filed an adversary proceeding on

5 January 29, 2025. Plaintiffs assert that they notified the Court regarding the bankruptcy on 6 February 4, 2025, during the mid-discovery status conference, and that they requested an 7 extension of the class certification and discovery deadline to allow sufficient time to determine 8 whether Plaintiffs could obtain timekeeping and payroll information in the related bankruptcy 9 proceeding. Per Plaintiffs, the Court granted the request but limited the extension to one month. 10 (Doc. 106-1; Declaration of Gonzalo Quezada ¶ 11.) Plaintiffs' assertion that they notified the 11 Court of the bankruptcy is belied by the record in this case. The minutes and minute order from 12 the February 4, 2025 mid-discovery status conference do not reflect any notification by Plaintiffs 13 of the bankruptcy proceeding. The minutes and minute order instead reflect that Plaintiffs' 14 counsel requested vacating or continuing the class certification deadlines given the pending 15 contempt order. (See Doc. 91.) Plaintiffs' subsequent status report reflects that they placed an 16 order for personal service on R T Farm Labor on February 4, 2025, and as of February 21, 2025, 17 they were considering substituted service of process. (Docs. 94, 96.) Plaintiffs do not mention 18 any status report the bankruptcy proceeding. Indeed, Plaintiffs make no mention of the 19 bankruptcy proceeding until their response to the show cause order on June 23, 2025, nearly 20 seven months after they learned of such proceeding. (Doc. 102.) The failure to notify the Court 21

of the bankruptcy proceedings precluded the Court from undertaking any efforts to manage its 22 docket or avoid potential violations of the automatic bankruptcy stay. 23 3. The risk of prejudice to the defendants 24 A presumption of injury arises from unreasonable delay in prosecuting an action. 25 *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). 26 T&C argues that the delay has impaired its ability to prepare its defense, as it remains 27 unable to ascertain whether Plaintiffs still intend to prosecute this case. T&C acknowledges that 28 the ability to obtain documents from R T Farm Labor has been impeded as that party is avoiding 1 service. T&C claims that the scope of discovery, the range of damages exposure, and the 2 necessary factual development all remain unresolved. As a result, it cannot prepare for trial, 3 move for summary judgment, or seek final resolution on the merits. Instead, “it has been forced 4 to remain tethered to a dormant lawsuit with no indication of progress or accountability from 5 Plaintiffs.” (Doc. 103 at 13.) T&C indicates that it has participated in discovery, complied with 6 scheduling orders, and prepared to litigate, but has been met with complete disengagement from 7 Plaintiffs. T&C Vineyards further claims that Plaintiffs’ delays have made it impossible to 8 respond meaningfully to broad and undefined class allegations. 9 Plaintiffs counter that T&C has failed to identify any actual prejudice, such as injury to its 10 legal rights or impairment of its ability to defend itself. Plaintiffs argue that T&C is in a better 11 position to defend and prosecute its cross-complaint against R T Farm Labor, Ricardo Gomez 12 Trevino, Ricardo Trevino Jr., and Harold Chuhlantseff than Plaintiffs. (Doc. 106 at 6.) To that 13 end, Plaintiffs contend that while the California Labor Code does not impose an affirmative duty 14 to do so, prudent client employers who wish to limit liability would request regular reports of 15 timekeeping and payroll data from their labor contractors. Plaintiffs note that labor contractors 16 must furnish their client employers with payroll lists of all the contractor’s employees assigned to 17 work for the grower and provide their client employers with payroll records. Plaintiffs argue that 18 “as the client employer of Defaulted Defendant R T Farms Labor, Inc., Defendant T&C 19 Vineyards should have access to and be able to defend itself and prosecute its cross-complaint, 20 yet it has chosen to move to dismiss to gain a procedural advantage in this action rather than 21 move for summary judgment to adjudicate the claims on their merits.” (Doc. 106 at 6.) Plaintiffs 22 contend the fact that T&C has not moved for summary judgment is telling. (Id.) Plaintiffs 23 indicate that T&C has not prosecuted the cross claim or attempted to use the Court’s subpoena 24 powers to prosecute its cross complaint or preserve its claims against Ricardo Trevino Jr. in 25 bankruptcy. Plaintiffs also complain that the Court has not set any deadlines regarding the cross 26 complaint nor issued an order to show cause regarding its lack of prosecution. (Doc. 106 at 6 n.3) 27 In reply, T&C argues that it has suffered prejudice because Plaintiffs’ failure to prosecute 28 has frozen the litigation in place. Without knowing Plaintiffs’ theory of liability, the scope of the 1 purported class, or the damages being sought, it cannot conduct relevant discovery, assess its risk 2 to exposure, or pursue dispositive motions. T&C further asserts that its access to some payroll 3 records does not eliminate the prejudice from the passage of time—due to loss of memory or the 4 inability to

locate witnesses. T&C additionally argues that repeated disobedience of a scheduling 5 order is inherently prejudicial, citing a First Circuit case and a Ninth Circuit bankruptcy case. As 6 to Plaintiffs' arguments regarding the crossclaims, T&C points out that its cross complaint is 7 expressly contingent on liability in the main action. 8 The Court finds that this factor weighs in favor of dismissal. Plaintiffs have not rebutted 9 the presumption of injury arising from their unreasonable delay in prosecuting an action. As 10 noted above, Plaintiffs have not provided any reason as to why they could not prosecute this 11 action with respect to T&C. The Court expressly warned Plaintiffs in February 2025 that they 12 could not continue prolonging class certification to T&C if it had complied with discovery 13 requests. (Doc. 91.) Despite repeated warnings about the class certification deadline, Plaintiffs 14 made no efforts to file a motion relative to T&C prior to expiration of the deadline or request an 15 extension of time. 16 4. The public policy favoring disposition of cases on their merits 17 The fourth factor usually weighs against dismissal because public policy favors 18 disposition on the merits. *Pagtalunan*, 291 F.3d at 643. However, "this factor lends little support 19 to a party whose responsibility it is to move a case toward disposition on the merits but whose 20 conduct impedes progress in that direction." In re Phenylpropanolamine (PPA) Products Liability 21 Litigation, 460 F.3d 1217, 1228 (9th Cir. 2006) (citation omitted). 22 T&C generally argue that Plaintiffs cannot invoke public policy favoring merits 23 disposition because their own conduct has prevented it. T&C notes that Plaintiffs missed the 24 class certification deadline, ignored multiple court orders, failed to engage in any meaningful 25 settlement discussions, and have still offered no plan moving forward. (Doc. 107 at 8.) 26 Plaintiffs counter that public policy favors resolving their claims on the merits – especially 27 given the presence of class claims. Plaintiffs cite *King v. Kansas City S. Indus., Inc.*, 519 F.2d 20, 28 1 25 (7th Cir. 1975), as noting the maintenance of class actions is federal policy. King did not 2 involve a motion to dismiss for failure to prosecute. 3 The Court finds that this factor weighs in favor of dismissal of T&C. As discussed, 4 Plaintiffs have failed to move this case toward disposition on the merits with respect to T&C. 5 Plaintiffs' argument regarding the presence of class claims is not well taken given their failure to 6 file a motion for class certification. Moreover, dismissal of T&C from this action does not equate 7 to a corresponding dismissal of the class claims with respect to the remaining defendants. 8 5. The availability of less drastic alternatives 9 Plaintiffs argue that there are less drastic alternatives to dismissal available. They posit 10 that while it is not necessary, "the parties can agree to dismiss Defendant T&C Vineyards without 11 prejudice until Plaintiffs determine the extent of liability as to Defendant T&C Vineyards after 12 Plaintiffs utilize the discovery process in Defaulted Defendant Trevino Jr.'s related bankruptcy 13 proceeding." (Doc. 106 at 5-6.) 14 T&C replies that dismissing it without prejudice is not a true lesser sanction because it 15 perpetuates the same delay and prejudice. T&C Vineyards argues that the Court has pursued 16 lesser sanctions, such warnings about the class certification deadline, the show cause order, and 17 warning about dismissal. 18 The Court does not find that there are less drastic alternatives to dismissal. The Court has 19 pursued other

measures, including repeated warnings regarding the class certification deadline, 20 issuing a show cause order, and warning about potential dismissal. Further, Plaintiffs' own 21 actions, namely the failure to notify the Court of the bankruptcy proceedings, prevented the Court 22 from utilizing other alternatives, such as a stay of the entire proceedings.

23 CONCLUSION AND ORDER

24 For the reasons stated, IT IS HEREBY ORDERED as follows: 25 1. The Order to Show Cause issued on June 2, 2025, (Doc. 101) is DISCHARGED 26 only with respect to defaulted Defendants R T Farm Labor, Inc., Ricardo Trevino Jr., Ricardo 27 Gomez Trevino, and Harold Chuhlantseff. 28 1 2. On or before September 19, 2025, Plaintiffs shall file a detailed status report 2 regarding their actions relative to defaulted Defendant Ricardo Trevino Jr.'s bankruptcy 3 proceeding and the related adversary proceeding. 4 3. Plaintiffs are advised that their failure to timely comply with this Order will result 5 in the imposition of sanctions, which may include dismissal. 6 Further, IT IS HEREBY RECOMMENDED that: 7 1. The Motion to Dismiss Plaintiff's Complaint as to Defendant T&C Vineyards 8 Pursuant to RFCP 41(b), (Doc. 103), be GRANTED; and 9 2. Defendant T&C Vineyards be DISMISSED from this action with prejudice. 10 These Findings and Recommendations will be submitted to the United States District 11 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within 12 fourteen (14) days after being served with these Findings and Recommendations, the parties may 13 file written objections with the court. The document should be captioned "Objections to 14 Magistrate Judge's Findings and Recommendations." Objections, if any, shall not exceed 15 fifteen (15) pages or include exhibits. Exhibits may be referenced by document and page 16 number if already in the record before the Court. Any pages filed in excess of the 15-page 17 limit may not be considered. The parties are advised that failure to file objections within the 18 specified time may result in the waiver of the "right to challenge the magistrate's factual 19 findings" on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing Baxter 20 v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)). 21 IT IS SO ORDERED. 22 23 Dated: August 14, 2025 /s/ Barbara A. McAuliffe _

UNITED STATES MAGISTRATE JUDGE

24 25 26 27 28