

JAN 09 2012

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MICHAEL B. MYERS; et al.,</p> <p style="text-align: center;">Plaintiffs - Appellants,</p> <p style="text-align: center;">v.</p> <p>MAILBOX IT STORES OF AMERICA, INC.; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

No. 10-56399

D.C. No. 2:08-cv-07213-SJO-JTL

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
S. James Otero, District Judge, Presiding

Submitted December 19, 2011\*\*

Before: GOODWIN, WALLACE, and McKEOWN, Circuit Judges.

Michael B. Myers, Jeannette A. Myers, and Sanjeev Subherwal appeal pro se from the district court’s order dismissing their diversity action for failure to prosecute. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

of discretion the district court's sua sponte dismissal for failure to prosecute. *Oliva v. Sullivan*, 958 F.2d 272, 274 (9th Cir. 1992). We affirm.

The district court did not abuse its discretion in dismissing the action for failure to prosecute after giving appellants warnings that failure to appropriately respond to its orders to show cause could lead to dismissal. *See id.*; *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986) (listing factors to guide the court's decision whether to dismiss for failure to prosecute).

Appellants' remaining contentions are unpersuasive.

**AFFIRMED.**