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**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA**

**ARNOLD DEWALT BEVERLY,**

**Plaintiff,**

**v.**

**FEDERAL ELECTIONS  
COMMISSION,**

**Defendant.**

**1: 08 - CV - 1538 AWI GSA**

**ORDER VACATING  
HEARING OF JANUARY 26,  
2009, AND TAKING MATTER  
UNDER SUBMISSION**

Currently pending before the Court is Defendant’s motion to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The hearing on this motion is set for January 26, 2009, at 1:30 p.m. Pursuant to Local Rule 78-230(c), Plaintiff was required to file either an opposition or a notice of non-opposition no later than January 12, 2009. Plaintiff failed to do so. Due to Plaintiff’s failure to file a timely opposition or notice of non-opposition, he is in violation of the Local Rules and is not entitled to be heard at oral argument in opposition to the motion. See 78-230(c). The court has reviewed Defendant’s motion and the applicable law, and has determined that the motion is suitable for decision without oral argument. See Local Rule 78-230(h).

Therefore, IT IS HEREBY ORDERED that the previously set hearing date of January 26, 2009, is VACATED, and no party shall appear at that time. As of January 26, 2009, the Court will take the matter under submission, and will thereafter issue its decision.

IT IS SO ORDERED.

**Dated: January 21, 2009**

**/s/ Anthony W. Ishii**  
**CHIEF UNITED STATES DISTRICT JUDGE**