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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 DENNIS L. HAMILTON,

12 Plaintiff,

13 vs.

14 JOHN HART, et al.,

15 Defendants.  
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1:10-cv-00272-LJO-GSA-PC

ORDER REQUIRING PLAINTIFF TO FILE  
OPPOSITION OR STATEMENT OF NON-  
OPPOSITION TO DEFENDANT PROUTY'S  
MOTION TO DISMISS WITHIN THIRTY  
DAYS

(Doc. 37.)

17 On January 28, 2014, defendant Prouty ("Defendant") filed a motion to dismiss. (Doc.  
18 37.) Plaintiff was required to file an opposition or a statement of non-opposition to the motion  
19 within twenty-one days, but has not done so. Local Rule 230(l).

20 Local Rule 230(l) provides that the failure to oppose a motion "may be deemed a waiver  
21 of any opposition to the granting of the motion..." The court may deem any failure to oppose  
22 Defendant's motion to dismiss as a waiver, and recommend that the motion be granted on that  
23 basis.

24 Failure to follow a district court's local rules is a proper grounds for dismissal. U.S. v.  
25 Warren, 601 F.2d 471, 474 (9th Cir. 1979). Thus, a court may dismiss an action for Plaintiff's  
26 failure to oppose a motion to dismiss, where the applicable local rule determines that failure to  
27 oppose a motion will be deemed a waiver of opposition. See Ghazali v. Moran, 46 F.3d 52 (9th  
28 Cir. 1995), cert. denied 516 U.S. 838 (1995) (dismissal upheld even where plaintiff contends he

1 did not receive motion to dismiss, where plaintiff had adequate notice, pursuant to Fed. R. Civ.  
2 P. 5(b), and time to file opposition); cf. Marshall v. Gates, 44 F.3d 722, 725 (9th Cir. 1995);  
3 Henry v. Gill Industries, Inc., 983 F.2d 943, 949-50 (9th Cir. 1993) (motion for summary  
4 judgment cannot be granted simply as a sanction for a local rules violation, without an  
5 appropriate exercise of discretion).

6 Accordingly, within thirty days of the date of service of this order, Plaintiff shall file an  
7 opposition or statement of non-opposition to the motion to dismiss filed by defendant Prouty on  
8 January 28, 2014. If Plaintiff fails to comply with this order, the Court may deem the failure to  
9 respond as a waiver, and recommend that the motion be granted on that basis.

10 IT IS SO ORDERED.

11 Dated: March 25, 2014

12 /s/ Gary S. Austin  
13 UNITED STATES MAGISTRATE JUDGE