

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

BRADY K. ARMSTRONG,)	Case No.: 1:13-cv-00246-AWI-SAB (PC)
Plaintiff,)	
v.)	ORDER VACATING HEARING DATE OF
M.E. SPEARMAN, et al.,)	AUGUST 6, 2014, NOTICED BY DEFENSE
Defendants.)	COUNSEL AND SETTING MATTER FOR
)	HEARING ON SEPTEMBER 3, 2014
)	[ECF No. 47]
)	

Plaintiff Brady K. Armstrong is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On July 9, 2014, Defendants Desfosse and Spearman filed a motion to dismiss Plaintiff’s amended complaint filed on June 9, 2014. Defense counsel noticed the motion for oral argument on August 6, 2014, at 10:00 a.m. before the undersigned.

The Court’s December 20, 2013, First Informational Order, advised the parties that Local Rule 230(l) applied to all motions which would be submitted without a hearing. Under Rule 230(l), Plaintiff’s opposition to Defendants’ motion to dismiss would not be due until on or before July 30, 2014 (21 days thereafter), and Defendants reply would not be until on or before August 6, 2014 (7 days thereafter), which is insufficient notice under the present hearing date of August 6, 2014.

Because defense counsel did not seek leave from the Court’s previous order and did not provide sufficient notice, the Court shall vacate the August 6, 2014, hearing date. Based on the fact

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

that Plaintiff is no longer incarcerated, the Court will construe defendant's notice of the motion as a request to proceed under Local Rule 230(b) and not 230(l), and the pending motion is set oral argument on **September 3, 2014, at 10:00 a.m.** in Courtroom Nine before the undersigned.

Applying the new hearing date and Local Rule 230(b), Plaintiff's opposition to Defendants' motion to dismiss is due on or before **August 20, 2014**, and any reply by Defendants is due on or before **August 27, 2014**.

IT IS SO ORDERED.

Dated: **July 29, 2014**


UNITED STATES MAGISTRATE JUDGE