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

RICHARD RISHER,

Plaintiff,

v.

DR. EBINOSA, et al.,

Defendants.

Case No. 1:17-cv-00087-EPG (PC)

ORDER REQUIRING PLAINTIFF TO FILE  
OPPOSITION OR STATEMENT OF NON-  
OPPOSITION TO DEFENDANTS'  
MOTION TO DISMISS (ECF NO. 25)  
WITHIN THIRTY DAYS

Richard Risher ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. On September 18, 2017, defendants Igbinsosa,<sup>1</sup> Jacques, Rasheed, and Trevino filed a partial motion to dismiss. (ECF No. 25). Plaintiff was required to file an opposition or a statement of non-opposition to the motion within twenty-one days (Local Rule 230(1)), but did not do so.

Local Rule 230(1) provides that the failure to oppose a motion "may be deemed a waiver of any opposition to the granting of the motion and may result in the imposition of sanctions." However, the Court will give Plaintiff an additional thirty days to file an opposition or statement of non-opposition to the motion to dismiss. The Court will deem failure to oppose the motion to dismiss as a waiver of any opposition, and may grant the motion (or recommend that the motion be granted) on that basis.

<sup>1</sup> Plaintiff's complaint refers to Igbinsosa as Ebinosa.

1 Failure to follow a district court's local rules is a proper ground for dismissal. U.S. v.  
2 Warren, 601 F.2d 471, 474 (9th Cir. 1979). Thus, a Court may dismiss an action for a plaintiff's  
3 failure to oppose a motion to dismiss, where the applicable local rule determines that failure to  
4 oppose a motion will be deemed a waiver of opposition. See Ghazali v. Moran, 46 F.3d 52 (9th  
5 Cir. 1995), cert. denied 516 U.S. 838 (1995) (dismissal upheld even where plaintiff contends he  
6 did not receive motion to dismiss, where plaintiff had adequate notice, pursuant to Fed. R. Civ. P.  
7 5(b), and time to file opposition); cf. Heinemann v. Satterberg, 731 F.3d 914, 916 (9th Cir. 2013)  
8 (holding that a motion for summary judgment cannot be granted based on a failure to file  
9 opposition, regardless of any local rule to the contrary).

10 Accordingly, based on the foregoing, IT IS HEREBY ORDERED that:

- 11 1. Within thirty days from the date of service of this order, Plaintiff shall file an  
12 opposition or statement of non-opposition to the partial motion to dismiss filed by  
13 Igbiosa, Jacques, Rasheed, and Trevino; and
- 14 2. If Plaintiff fails to comply with this order, the Court will deem the failure to  
15 respond as a waiver of any opposition and may grant the motion (or recommend  
16 that the motion be granted) on that basis. Additionally, the Court may dismiss this  
17 case (or recommend that this case be dismissed) for failure to prosecute and failure  
18 to comply with a court order.

19  
20 IT IS SO ORDERED.

21 Dated: October 19, 2017

22 /s/ Eric P. Gray  
23 UNITED STATES MAGISTRATE JUDGE