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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID IBARRA,
Plaintiff,
v.
L.D. ZAMORA, et al.,
Defendants.

CASE No. 1:17-cv-00144-JLT
**FINDINGS AND RECOMMENDATIONS
TO DISMISS ACTION**
**ORDER DIRECTING CLERK OF COURT
TO ASSIGN A DISTRICT JUDGE**
(Doc. 23)

On November 8, 2017, defendants filed a motion to dismiss. (Doc. 19) Plaintiff has filed no opposition, although court records reflect plaintiff was properly served with notice of the motion. On April 2, 2018, the court issued an order to show cause why this action should not be dismissed for plaintiff’s failure to oppose defendants’ motion. The Court specifically informed the plaintiff that his failure to file an opposition or otherwise respond to the court’s order would result in a recommendation that this action be dismissed. The deadline for responding has now passed, and plaintiff has still not filed an opposition or otherwise responded to the order to show cause.

Local Rule 230(l) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion” Further, Local Rule 110 provides that failure to comply with the Local Rules “may be grounds for imposition of any and all sanctions authorized by statute or

1 Rule or within the inherent power of the Court.”

2 Pursuant to Local Rule 230(1), the court deems the failure to file written opposition as a
3 waiver of any opposition to the granting of defendant’s motion. Furthermore, “[f]ailure to follow
4 a district court’s local rules is a proper ground for dismissal.” Ghazali v. Moran, 46 F.3d 52, 53
5 (9th Cir. 1995). Pro se litigants are bound by the rules of procedure, even though pleadings are
6 liberally construed in their favor. King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987); Jacobsen v.
7 Filler, 790 F.2d 1362, 1364-65 (9th Cir.1986).

8 In determining to recommend that this action be dismissed, the court has considered the
9 five factors set forth in Ghazali, 46 F.3d at 53. Plaintiff’s failure to comply with the Local Rules
10 has impeded the expeditious resolution of the instant litigation and has burdened the court’s
11 docket, consuming scarce judicial resources in addressing litigation which plaintiff demonstrates
12 no intention to pursue. Although public policy favors disposition of cases on their merits,
13 plaintiff’s failure to oppose the pending motion has precluded the court from doing so. In
14 addition, defendants are prejudiced by the inability to reply to opposition. Finally, the court has
15 repeatedly advised plaintiff of the requirements under the Local Rules and granted ample
16 additional time to oppose the pending motion, all to no avail. The court finds no suitable
17 alternative to dismissal of this action. Accordingly, the Court **ORDERS**:

18 1. The Clerk of Court is directed to assign a district judge to this case.

19 In addition, the Court **RECOMMENDS** that this action be **DISMISSED**.

20 These findings and recommendations are submitted to the United States District Judge
21 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
22 after being served with these findings and recommendations, any party may file written
23 objections with the court and serve a copy on all parties. Such a document should be captioned
24 “Objections to Magistrate Judge’s Findings and Recommendations.” The parties may respond to
25 objections within fourteen days after service of the objections.

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The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: June 4, 2018

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE