

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

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

RAUL MONTANO,

Plaintiff,

No. 2:07-cv-0800 KJN P

vs.

SOLOMON, et al.,

ORDER

Defendants.

_____ /

On March 28, 2012, sole defendant, Dr. Richard Tan, filed a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56. Plaintiff’s opposition was due within twenty-one days after service of the motion. Local Rule 230(l). That deadline has passed, and plaintiff has not responded to the motion.

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” On June 29, 2009, plaintiff was advised of the requirements for filing an opposition to a motion, and informed that failure to oppose such a motion may be deemed a waiver of opposition thereto. (Dkt. No. 23.)

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 Rule or within the

1 inherent power of the Court.” In the order filed June 29, 2009, plaintiff was also advised that
2 failure to comply with the Local Rules may result in a recommendation that the action be
3 dismissed.


4 Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

5 **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute
6 or to comply with these rules or a court order, a defendant may
7 move to dismiss the action or any claim against it. Unless the
8 dismissal order states otherwise, a dismissal under this subdivision
9 (b) and any dismissal not under this rule--except one for lack of
10 jurisdiction, improper venue, or failure to join a party under Rule
11 19--operates as an adjudication on the merits.

9 Id.

10 Good cause appearing, IT IS HEREBY ORDERED that, within fourteen days
11 after service of this order, plaintiff shall file an opposition, if any, to the motion for summary
12 judgment. Failure to file an opposition will be deemed as consent to have: (a) the pending
13 motion granted; (b) the action dismissed for lack of prosecution; and (c) the action dismissed
14 based on plaintiff’s failure to comply with these rules and a court order. Such failure shall result
15 in a recommendation that this action be dismissed pursuant to Federal Rule of Civil Procedure
16 41(b).

17 DATED: April 26, 2012

18
19 
20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE

21 mont0800.nooppo.kjn.mod