

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

DANIEL HARPER,

Plaintiff, No. CIV S-07-2149 LKK DAD F

VS.

SGT. COSTA, et al.,

Defendants. ORDER

On December 8, 2008, defendants Costa and Mendes filed a motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Plaintiff has not opposed the motion.¹

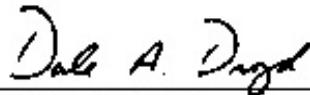
Local Rule 78-230(m) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion” On August 6, 2008, plaintiff was advised of the requirements for filing an opposition to the motion and that failure to oppose such a motion may be deemed a waiver of opposition to the motion.

¹ If plaintiff no longer wishes to proceed with this matter, he should file a request to dismiss this action without prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

1 Local Rule 11-110 provides that failure to comply with the Local Rules "may be
2 grounds for imposition of any and all sanctions authorized by statute or Rule or within the
3 inherent power of the Court." In the order filed August 6, 2008, plaintiff was advised that failure
4 to comply with the Local Rules may result in a recommendation that the action be dismissed.

5 Good cause appearing, IT IS HEREBY ORDERED that, within twenty days of the
6 date of this order, plaintiff shall file an opposition, if any, to defendants' motion to dismiss.
7 Failure to file an opposition will be deemed as a statement of non-opposition and shall result in a
8 recommendation that this action be dismissed pursuant Federal Rule of Civil Procedure 41(b). In
9 the alternative, plaintiff may file a request to dismiss this action without prejudice pursuant to
10 Rule 41(a) of the Federal Rules of Civil Procedure.

11 DATED: January 23, 2009.

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14 DALE A. DROZD
15 UNITED STATES MAGISTRATE JUDGE

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