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

ANTHONY GRAHAM,

Plaintiff,

No. 2:08-cv-2533 GEB KJN P

vs.

DR. M. JAFFEE, et al.,

Defendants.

ORDER

_____ /

On June 21, 2011, defendants Jubb, Whitted and Wiggins filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b) and 12(b)(6). Defendant Wiggins also moves to dismiss the claims against her based on plaintiff’s alleged failure to exhaust his administrative remedies. Plaintiff has not opposed 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 March 22, 2011, plaintiff was advised of the requirements for filing an opposition to a motion and that failure to oppose such a motion may be deemed a waiver of opposition to the motion.

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 March 22, 2011, plaintiff was also advised that
2 failure to comply with the Local Rules may result in a recommendation that the action be
3 dismissed.

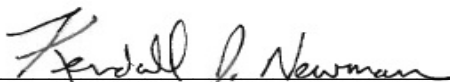
4 Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

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
(b) and any dismissal not under this rule--except one for lack of
jurisdiction, improper venue, or failure to join a party under Rule
19--operates as an adjudication on the merits.

9 Id.

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

16 DATED: July 26, 2011

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19 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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