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

UNITED STATES OF AMERICA,

Plaintiff,

CIV. NO. S- 09-1852 JAM GGH PS

vs.

JOSEPH J. DEKELLIS,

Defendant.

ORDER AND

ORDER TO SHOW CAUSE

Plaintiff is proceeding pro se in this action, referred to the undersigned pursuant to Local Rules 72-302(c)(21) and 302(c)(16) (actions brought pursuant to 20 U.S.C. § 1071 involving federally insured student loans. Defendant’s motion to dismiss is presently noticed for hearing on the April 29, 2010, law and motion calendar of the undersigned. Opposition to motions, or a statement of non-opposition thereto, must be filed fourteen days preceding the noticed hearing date. E.D. Cal. L. R. 78-230(c). Court records reflect that the government failed to file opposition or a statement of non-opposition to the motion.

Failure to comply with the Local Rules “may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of the Court.” E.D. Cal. L. R. 11-110; see Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Additionally, “[n]o party will be entitled to be heard in opposition to a motion at oral arguments

1 if written opposition to the motion has not been timely filed.” E.D. Cal. L. R. 78-230(c).¹ Pro se
2 litigants are bound by the rules of procedure, even though pleadings are liberally construed in
3 their favor. King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987); Jacobsen v. Filler, 790 F.2d 1362,
4 1364-65 (9th Cir.1986). The Local Rules specifically provide that cases of persons appearing in
5 propria persona who fail to comply with the Federal and Local Rules are subject to dismissal,
6 judgment by default, and other appropriate sanctions. E.D. Cal. L. R. 83-183.

7 Good cause appearing, IT IS HEREBY ORDERED that:

8 1. The hearing date of April 29, 2010 is vacated. Hearing on defendant’s motion
9 is continued to May 20, 2010.

10 2. The government shall show cause, in writing, no later than May 6, 2010 why
11 sanctions should not be imposed for failure timely to file opposition or a statement of non-
12 opposition to the pending motion.

13 3. The government is directed to file opposition, if any, to the motion, or a
14 statement of non-opposition thereto, no later than May 6, 2010. Failure to file opposition and
15 appear at hearing, or to file a statement of non-opposition, will be deemed a statement of non-
16 opposition, and shall result in a recommendation that this action be dismissed.

17 DATED: April 27, 2010

18 /s/ Gregory G. Hollows

19 _____
20 GREGORY G. HOLLOWES
U. S. MAGISTRATE JUDGE

21 GGH:076:DeKellis1852.osc.wpd

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25 _____
26 ¹ Moreover, failure to appear at hearing may be deemed withdrawal of opposition to a
motion or may result in sanctions. E.D. Cal. L. R. 78-230(j).