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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIO NAVARRO,,
Plaintiff,
v.
DEBRA HERNDON, et al.,
Defendant.

No. 2:09-CV-1878 KJM KJN P

ORDER

On August 1, 2013, defendants filed a motion to dismiss, pursuant to Federal Rule of Civil Procedure 12. (ECF No. 107.) Plaintiff has not filed an opposition or statement of non-opposition, which was due within 21 days after service of the motion. (See ECF Nos. 63, 90.) See Local Rule 230(l).

The court notes that, during this period, defendants have scheduled plaintiff's deposition, and seek to modify the deadline for filing dispositive motions until after the court's ruling on the pending motion to dismiss. In addition, plaintiff was ordered, on August 8, 2013, to provide discovery responses within 30 days. (See ECF No. 108.) These several matters demonstrate good cause to extend the time within which plaintiff may file and serve his opposition to the pending motion.

Plaintiff should be aware of the following requirements. First, in their notice provided in tandem with the motion to dismiss, defendants informed plaintiff of the requirements for

1 opposing a motion to dismiss that is premised on plaintiff's alleged failure to exhaust his
2 administrative remedies. (See ECF No. 107-2.) See Rand v. Rowland, 154 F.3d 952, 962-3 (9th
3 Cir. 1998) (en banc); Wyatt v. Terhune, 315 F.3d 1108, 1120 n.14 (9th Cir. 2003); Woods v.
4 Carey, 684 F.3d 934, 940 n.6 (9th Cir. 2012).

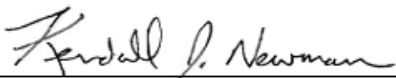
5 Second, failure to timely file and serve an opposition, or statement of non-opposition, to
6 the motion may be deemed a waiver of opposition. Local Rule 230(l). Failure to comply with the
7 Local Rules provides an independent ground for the imposition of "any and all sanctions
8 authorized by statute or Rule or within the inherent power of the Court." Local Rule 110.
9 Moreover, Rule 41(b), Federal Rules of Civil Procedure, authorizes the involuntary dismissal of
10 an action in which the plaintiff has failed to follow court orders or rules, or has failed to prosecute
11 the action.

12 Plaintiff shall bear these consequences in mind in considering the timing and content of
13 his opposition, or statement of non-opposition, to the pending motion.

14 Accordingly, good cause appearing, IT IS HEREBY ORDERED that plaintiff shall file
15 and serve his opposition, or statement of non-opposition, to defendants' pending motion to
16 dismiss on or before Friday, October 4, 2013. Defendants may file and serve and reply within 7
17 days after the docketing of plaintiff's brief.

18 SO ORDERED.

19 Dated: August 30, 2013

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21 _____
22 KENDALL J. NEWMAN
23 UNITED STATES MAGISTRATE JUDGE

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