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

NORTH AMERICAN SPECIALTY
INSURANCE COMPANY,

Plaintiff,

No. CIV S-09-2061 GEB EFB

vs.

JOSEPH C. CAMPBELL, individually
and also known as JOE CAMPBELL, and
JOSEPH CHARLES CAMPBELL, and
dba JC SHOW HORSES; JC SHOW
HORSES, LLC; and DEBORAH SAUERS,
individually,

ORDER AND
ORDER TO SHOW CAUSE

Defendants.

_____ /
This case was referred to the undersigned pursuant to Eastern District of California Local Rule 302(c)(19) and 28 U.S.C. § 636(b)(1) for hearing on plaintiff’s motion for entry of default judgment against defendants Joseph Campbell and JC Show Horses LLC (“defendants”). The motion for default judgment was originally scheduled for hearing on November 25, 2009, but defendants failed to file an opposition to the motion or otherwise appear in this action. Accordingly, on November 24, 2009, the matter was ordered submitted without oral argument pursuant to Local Rule 230. Dckt. No. 44. However, on the date of the scheduled hearing, Campbell appeared for oral argument and spoke with the court’s courtroom deputy clerk. That

1 same day, Campbell filed a document entitled “answer,” in which he denies the allegations in
2 plaintiff’s complaint, contends that he was not properly served with the summons, and asserts
3 that he has been attempting to retain an attorney to represent him in this action. Dckt. No. 46.
4 He also requested time to raise the “balance of the funds necessary to retain [counsel]” but did
5 not indicate how much time he needed to do so. *Id.*

6 In light of Campbell’s November 25, 2009 filing, the court issued an order on December
7 3, 2009, rescheduling the hearing on plaintiff’s motion for January 27, 2010. Dckt. No. 47. The
8 court stated that “[o]n or before January 6, 2010, Campbell and/or JC Show Horses, LLC shall
9 file an opposition or a statement of non-opposition to plaintiff’s motion and/or shall file a request
10 that the court set aside the Clerk’s August 26, 2009 entry of default.” *Id.* The order included a
11 citation to Federal Rule of Civil Procedure 55(c), and stated that “[i]f Campbell and/or JC Show
12 Horses, LLC requests that the court set aside the Clerk’s entry of default judgment, that request
13 shall also be noticed for hearing on January 27, 2010.” *Id.*

14 Court records reflect that neither Campbell nor JC Show Horses, LLC has filed an
15 opposition or a statement of non-opposition to plaintiff’s motion and/or a request that the court
16 set aside the Clerk’s August 26, 2009 entry of default, as required by the court’s December 3,
17 2009 order. Although Campbell has called the undersigned’s courtroom deputy clerk indicating
18 that he is unsure what to file or how to do so, his obligations to comply with the December 3,
19 2009 order have not been excused.¹ *Pro se* litigants are bound by the rules of procedure, even
20 though pleadings are liberally construed in their favor. *King v. Atiyeh*, 814 F.2d 565, 567 (9th
21 Cir. 1987). Local Rule 230(c) provides that “[n]o party will be entitled to be heard in opposition
22 to a motion at oral arguments if opposition to the motion has not been timely filed by that party.”
23 Additionally, Local Rule 110 provides that failure to comply with the Local Rules or with an
24 order of the court “may be grounds for imposition by the Court of any and all sanctions
25

26 ¹ Campbell is admonished that neither the court nor its staff may give legal advice.

1 authorized by statute or Rule or within the inherent power of the Court.” *See also* E.D. Cal. L.R.
2 183 (governing persons appearing *in pro se* and providing that failure to comply with the Federal
3 Rules of Civil Procedure and Local Rules may be ground for dismissal, judgment by default, or
4 other appropriate sanction); *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (“Failure to follow
5 a district court’s local rules is a proper ground for dismissal.”).

6 Accordingly, good cause appearing, IT IS HEREBY ORDERED that:

7 1. The hearing on plaintiff’s motion for default judgment, Dckt. No. 23, currently set for
8 January 27, 2010 is continued to March 3, 2010, at 10:00 a.m., in Courtroom No. 24, and all
9 remaining deadlines set forth in the December 3, 2009 order are vacated.

10 2. On or before February 10, 2010, Campbell and JC Show Horses LLC shall show
11 cause in writing why one or both of them should not be sanctioned for failing to comply with the
12 December 3, 2009 order.

13 3. On or before February 10, 2010, Campbell and/or JC Show Horses LLC shall also file
14 an opposition or a statement of non-opposition to plaintiff’s motion and/or shall file a request
15 that the court set aside the Clerk’s August 26, 2009 entry of default.

16 4. On or before February 17, 2010, plaintiff shall file a response to any opposition and/or
17 any request to set aside default filed by Campbell and/or JC Show Horses LLC, and shall
18 indicate the effect of Campbell’s November 25, 2009 filing and any subsequent filing(s) by
19 Campbell and/or JC Show Horses LLC on plaintiff’s motion for default judgment.

20 5. If Campbell and/or JC Show Horses LLC files a request to set aside the Clerk’s entry
21 of default, Campbell and/or JC Show Horses LLC may file a reply to plaintiff’s opposition
22 thereto on or before February 24, 2010.

23 6. If Campbell and/or JC Show Horses LLC fails to comply with this order, the March 3,
24 2010 hearing will be vacated, sanctions may be imposed against Campbell and/or JC Show
25 Horses LLC, and default judgment may be entered against one or both of those defendants.

26 ///

1 7. The Clerk is directed to serve a copy of this order on defendants Campbell and JC
2 Show Horses LLC at the following address: 15151 E. Tokay Colony Road, Lodi, California
3 95240.²

4 DATED: January 20, 2010.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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² Although defendant JC Show Horses, LLC has not appeared in this action or provided the court with its proper address, plaintiff alleges that Campbell is JC Show Horses, LLC's sole representative and agent. Dckt. No. 24 at 5.