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

10 TONY AUSTIN GANT,

11 Plaintiff,

No. 2:09-cv-2439 KJN P

12 vs.

13 TOM BOSENKO, et al.,

14 Defendants.

ORDER VACATING

NOVEMBER 3, 2011 HEARING

15 _____/
16 Plaintiff is a former state prisoner proceeding without counsel. On September 30,
17 2011, defendants filed a motion for summary judgment pursuant to Federal Rule of Civil
18 Procedure 56, and noticed the motion for hearing on November 3, 2011, before the undersigned.
19 Plaintiff has not opposed the motion.

20 Local Rule 230(l) provides in part: "Failure of the responding party to file written
21 opposition or to file a statement of no opposition may be deemed a waiver of any opposition to
22 the granting of the motion" On December 7, 2010, plaintiff was advised of the requirements
23 for filing an opposition to a motion and that failure to oppose such a motion may be deemed a
24 waiver of opposition to the motion.

25 Local Rule 110 provides that failure to comply with the Local Rules "may be
26 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 December 7, 2010, plaintiff was also advised
2 that 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:

11 1. Within thirty days of the date of this order, plaintiff shall file an opposition, if
12 any, to the motion for summary judgment. Failure to file an opposition will be deemed as
13 consent to have the: (a) pending motion granted; (b) action dismissed for lack of prosecution;
14 and (c) action dismissed based on plaintiff’s failure to comply with these rules and a court order.
15 Said failure shall result in a recommendation that this action be dismissed pursuant to Federal
16 Rule of Civil Procedure 41(b).

17 2. The November 3, 2011 hearing is vacated.

18 DATED: October 27, 2011

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21 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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