

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

CLINTON WAGNER,

Plaintiff,

No. 2:09-cv-3166 FCD KJN P

vs.

MOSS POSNER, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

_____ /

On April 20, 2010, defendants Schuster and Posner filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). Plaintiff has not opposed the motion.

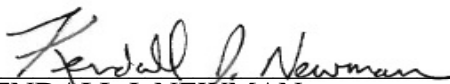
Local Rule 230(l) provides in part: "Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion" On February 17, 2010, plaintiff was advised of the requirements for filing an opposition to a motion to dismiss and that failure to oppose such a motion may be deemed a waiver of opposition to the motion.

///
///
///
///

1 Accordingly, plaintiff's failure to oppose should be deemed a waiver of
2 opposition to the granting of the motion. The defendants' arguments in the motion are well
3 taken. IT IS HEREBY RECOMMENDED that the motion to dismiss filed April 20, 2010, on
4 behalf of defendants Schuster and Posner (Dkt. No. 20) be granted.

5 These findings and recommendations are submitted to the United States District
6 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-
7 one days after being served with these findings and recommendations, any party may file written
8 objections with the court and serve a copy on all parties. Such a document should be captioned
9 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
10 shall be served and filed within ten days after service of the objections. The parties are advised
11 that failure to file objections within the specified time may waive the right to appeal the District
12 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

13 DATED: May 26, 2010

14
15
16 
17 KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE

19
20
21
22
23
24
25
26
wag3166.46