

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

MORRIS MESTER,

Plaintiff,

No. 2:09-cv-3307 KJM KJN P

vs.

K. DICKINSON, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

On March 12, 2012, defendant Reed filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12. 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 October 28, 2010, plaintiff was advised of the requirements for filing an opposition to a motion and that failure to oppose such a motion may be deemed a waiver of opposition to the motion.

Local Rule 110 provides that failure to comply with the Local Rules “may be grounds for imposition of any and all sanctions authorized by statute or Rule or within the inherent power of the Court.” In the order filed October 28, 2010, plaintiff was also advised that

///

1 failure to comply with the Local Rules may result in a recommendation that the action be  
2 dismissed.

3 Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

4 **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute  
5 or to comply with these rules or a court order, a defendant may  
6 move to dismiss the action or any claim against it. Unless the  
7 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.

8 Id.

9 Good cause appearing, IT IS HEREBY ORDERED that, within thirty days of the  
10 date of this order, plaintiff shall file an opposition, if any, to the motion to dismiss. Failure to file  
11 an opposition will be deemed as consent to have the: (a) pending motion granted; (b) action  
12 dismissed for lack of prosecution; and (c) action dismissed based on plaintiff's failure to comply  
13 with these rules and a court order. Such failure shall result in a recommendation that this action  
14 be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

15 DATED: April 23, 2012

16  
17   
18 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

19 mest3307.46o