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

FREDERIC MILLER,

Plaintiff,

vs.

CIV S-10-834 LKK DAD (TEMP) PS

DENNIS JONES,

Defendant.

ORDER

_____/

Plaintiff is proceeding pro se and in forma pauperis. Plaintiff has filed a “request for judicial notice” and demanded that his motion be heard on at 9:30 a.m. on April 11, 2011. Plaintiff is advised that law and motion is held before the undersigned on Fridays at 10:00 a.m. In addition, plaintiff is advised that requests for judicial notice are in the usual course of litigation made in connection with a dispositive motion, such as a motion to dismiss or motion for summary judgment. Plaintiff’s motion for judicial notice is defective in that it does not set forth what matters plaintiff seeks to have judicially noticed. Accordingly, there will be no hearing on plaintiff’s motion.

Presently calendared for hearing on April 22, 2011 is defendant’s motion to dismiss. Plaintiff is advised that Local Rule 230(c) provides that opposition to the granting of a motion must be filed fourteen days preceding the noticed hearing date. The Rule further provides

1 that “[n]o party will be entitled to be heard in opposition to a motion at oral arguments if written
2 opposition to the motion has not been timely filed by that party.” In addition, Local Rule 230(i)
3 provides that failure to appear may be deemed withdrawal of opposition to the motion or may
4 result in sanctions. Finally, Local Rule 110 provides that failure to comply with the Local Rules
5 “may be grounds for imposition of any and all sanctions authorized by statute or Rule or within
6 the inherent power of the Court.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The April 11, 2011 hearing on plaintiff’s request for judicial notice is vacated.
9 Plaintiff’s request for judicial notice is denied without prejudice.

10 2. Plaintiff shall file opposition, if any, to the motion to dismiss no later than
11 April 8, 2011. Failure to file opposition will be deemed as a statement of non-opposition and
12 shall result in submission of the motion on the papers and a recommendation that this action be
13 dismissed.

14 DATED: April 1, 2011.

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17 _____
18 DALE A. DROZD
19 UNITED STATES MAGISTRATE JUDGE

19 JMM
20 miller-jones.oppo