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

MICHAEL GENE MCKINNEY,

Plaintiff,

No. CIV S-10-1139 FCD EFB PS

vs.

TEHAMA COUNTY; RICHARD
SCHEULER; IRENE RODRIGUEZ,

ORDER AND
ORDER TO SHOW CAUSE

Defendants.

_____/

This case, in which plaintiff is proceeding *pro se*, is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21). *See* 28 U.S.C. § 636(b)(1). On August 6, 2010, defendants Richard Scheuler and Irene Rodriguez moved to dismiss plaintiff’s complaint pursuant to Federal Rule of Civil Procedure (“Rule”) 12(b)(6), and noticed the motion to be heard on September 15, 2010. Dckt. No. 9. Then, on August 9, 2010, defendant Tehama County filed a motion to dismiss pursuant to Rule 12(b)(6), and also noticed the hearing for September 15, 2010. Dckt. No. 10.

Court records reflect that plaintiff has filed neither an opposition nor a statement of non-opposition to defendants’ motions. Local Rule 230(c) provides that opposition to the granting of a motion, or a statement of non-opposition thereto, must be served upon the moving party, and filed with this court, no later than fourteen days preceding the noticed hearing date or,

1 in this instance, by September 1, 2010. Local Rule 230(c) further provides that “[n]o party will
2 be entitled to be heard in opposition to a motion at oral arguments if opposition to the motion has
3 not been timely filed by that party.”

4 Local Rule 183, governing persons appearing *in pro se*, provides that failure to comply
5 with the Federal Rules of Civil Procedure and Local Rules may be ground for dismissal,
6 judgment by default, or other appropriate sanction. Local Rule 110 provides that failure to
7 comply with the Local Rules “may be grounds for imposition by the Court of any and all
8 sanctions authorized by statute or Rule or within the inherent power of the Court.” *See also*
9 *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (“Failure to follow a district court’s local rules
10 is a proper ground for dismissal.”). *Pro se* litigants are bound by the rules of procedure, even
11 though pleadings are liberally construed in their favor. *King v. Atiyeh*, 814 F.2d 565, 567 (9th
12 Cir. 1987).

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

14 1. The hearing on defendants’ motions to dismiss, Dckt. Nos. 9 and 10, is continued to
15 October 27, 2010;

16 2. Plaintiff shall show cause, in writing, no later than October 13, 2010, why sanctions
17 should not be imposed for failure to timely file an opposition or a statement of non-opposition to
18 the pending motions.

19 3. Plaintiff shall file an opposition to the motions, or a statement of non-opposition
20 thereto, no later than October 13, 2010.

21 4. Failure of plaintiff to file an opposition will be deemed a statement of non-opposition
22 to the pending motions, and may result in a recommendation that this action be dismissed for
23 lack of prosecution. *See Fed. R. Civ. P. 41(b)*.

24 5. Defendants may file replies to plaintiff’s opposition(s), if any, on or before October
25 20, 2010.

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6. The status (pretrial scheduling) conference currently set for September 15, 2010 is continued to December 15, 2010.

7. On or before December 1, 2010, the parties shall file status reports, as required by the order issued on May 10, 2010, Dckt. No. 4.

SO ORDERED.

DATED: September 9, 2010.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE