

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

GRANVILLE H. MARSHALL, JR.,

Plaintiff,

No. CIV S-10-1286 JAM DAD PS

vs.

HAL MEADOWS, et al.,

Defendants.

ORDER

_____ /

This matter came before the court on August 6, 2010, for hearing of the motions to strike and to dismiss filed by defendant Banner Lassen Medical Center on June 24, 2010, and the motion to dismiss and for more definite statement filed by defendant Meadows on June 28, 2010. (Doc. Nos. 6, 10, 17.) Jennifer L. Pruski, Esq. appeared for defendant Banner Lassen Medical Center, and J. Hawken Flanagan, Esq. appeared for defendant Meadows. No appearance was made by or on behalf of plaintiff, who is proceeding in this action in propria persona.

The court noted on the record that the Clerk of the Court received a request for continuance from plaintiff on August 4, 2010, and entered the request on the court's docket on August 5, 2010, the day prior to the hearing. Plaintiff's untimely filing gave the court insufficient time to act on his request prior to the hearing. In the absence of an order granting his request, plaintiff remained obligated to appear at the hearing of defendants' motion on August 6,

1 2010. Plaintiff is cautioned that any subsequent failure to appear may result in a
2 recommendation that this action be dismissed.¹ See Local Rule 110.

3 Plaintiff is advised that opposition or a statement of no-opposition to a properly
4 noticed motion must be filed no later than two weeks prior to the date set for hearing. See Local
5 Rule 230(c). If a party needs an extension of time to respond to a motion, the party must seek an
6 extension of time prior to the due date of the response. See Local Rule 144(d). A document is
7 “filed” when it is “delivered into the custody of the Clerk and accepted by the Clerk for inclusion
8 in the official records of the action.” Local Rule 101.

9 In the interests of justice, the pro se plaintiff will be granted additional time to
10 respond to the pending motions, and the hearing will be continued. No further extension of time
11 will be granted for this purpose. If plaintiff retains counsel, counsel will be bound by this order.

12 For the reasons set forth on the record in open court, IT IS ORDERED that:

13 1. Plaintiff’s August 4, 2010 motion titled “Plaintiff’s Request to Take Leave
14 From Court” (Doc. No. 22) is granted in part;

15 2. On or before September 3, 2010, plaintiff shall file and serve opposition or a
16 statement of non-opposition to defendant Banner Lassen Medical Center’s motions to strike and
17 to dismiss and defendant Meadows’ motion to dismiss and for more definite statement;

18 3. Defendants’ replies, if any, shall be filed and served on or before September
19 13, 2010;

20 4. The hearing of defendants’ pending motions is continued to September 24,
21 2010, at 10:00 a.m. in Courtroom 27. Any party, including a pro se party, may appear
22 telephonically at a motion hearing before the undersigned; to arrange telephonic appearance, the
23

24 ¹ “Any individual representing himself or herself without an attorney is bound by the
25 Federal Rules of Civil or Criminal Procedure, these [Local] Rules, and all other applicable law.
26 All obligations placed on ‘counsel’ by these Rules apply to individuals appearing in propria
persona. Failure to comply therewith may be ground for dismissal . . . or any other sanction
appropriate under these Rules.” Local Rule 183(a).

1 party must call Pete Buzo, courtroom deputy to the undersigned, at 930-4128 no later than 48
2 hours prior to the motion hearing date and must provide a land-line telephone number;

3 5. The status conference set for October 1, 2010, before the undersigned is
4 vacated, and the parties are relieved of the obligation to file status reports;

5 6. The court's order to show cause (Doc. No. 19) regarding service of the order
6 setting status conference is moot and is discharged on that ground; and

7 7. Defendant Meadows shall re-serve his motion to dismiss and for more definite
8 statement upon plaintiff by mail and file a proof of such service forthwith.

9 DATED: August 6, 2010.

10
11 
12 _____
13 DALE A. DROZD
14 UNITED STATES MAGISTRATE JUDGE

13 DAD:kw
14 Ddad1\orders.prose\marshall1286.oah.080610