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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RANDOLPH M. DIAZ,  
Plaintiff,  
v.  
M. MARTEL, et al.,  
Defendants.

No. 2:10-cv-01388-MCE-KJN P

ORDER

On August 30, 2013, defendants filed a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56. 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 January 27, 2012, 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. See Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998) (en banc), and Klinge v. Eikenberry, 849 F.2d 409, 411-12 (9th Cir. 1988).

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 [date para 8 USM svc order issued], plaintiff was also advised that failure to comply with the Local Rules may result in a recommendation that the action be

1 dismissed.

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

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

7 Id.


8 Good cause appearing, IT IS HEREBY ORDERED that, within thirty (30) days from the  
9 date of this order, plaintiff shall file an opposition, if any, to the motion for summary judgment.  
10 Failure to file an opposition will be deemed as consent to have the: (a) action dismissed for lack  
11 of prosecution; and (b) action dismissed based on plaintiff's failure to comply with these rules  
12 and a court order. Such failure shall result in a recommendation that this action be dismissed  
13 pursuant to Federal Rule of Civil Procedure 41(b).

14 SO ORDERED.

15 Dated: October 16, 2013

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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