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

JERRY W. BAKER,

Plaintiff,

Case No. 2:10-cv-1811 KJM KJN P

vs.

SOLANO COUNTY, et al.,

Defendants.

ORDER

_____/

On October 11, 2012, defendants re-filed their motion for summary judgment pursuant to Federal Rule of Civil Procedure 56, and this court’s October 9, 2012 order. 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” Id. On November 10, 2010, October 9, 2012, and October 11, 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).

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1 Local Rule 110 provides that failure to comply with the Local Rules “may be
2 grounds for imposition of any and all sanctions authorized by statute or Rule or within the
3 inherent power of the Court.” In the order filed November 10, 2010, plaintiff was also advised
4 that failure to comply with the Local Rules may result in a recommendation that the action be
5 dismissed.

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


7 **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute
8 or to comply with these rules or a court order, a defendant may
9 move to dismiss the action or any claim against it. Unless the
10 dismissal order states otherwise, a dismissal under this subdivision
11 (b) and any dismissal not under this rule--except one for lack of
12 jurisdiction, improper venue, or failure to join a party under Rule
13 19--operates as an adjudication on the merits.

14 Id.

15 Finally, on January 12, 2012, and June 12, 2012, plaintiff was reminded that
16 failure to timely file an opposition will be deemed as consent to have the: (a) pending motion
17 granted; (b) action dismissed for lack of prosecution; and (c) action dismissed based on
18 plaintiff’s failure to comply with these rules and a court order, and that such failure shall result in
19 a recommendation that this action be dismissed pursuant to Federal Rule of Civil Procedure
20 41(b). (Dkt. No. 54 & 59.)

21 Good cause appearing, IT IS HEREBY ORDERED that, within twenty-one days
22 of the date of this order, plaintiff shall file an opposition, if any, to the motion for summary
23 judgment. Failure to file an opposition will be deemed as consent to have the: (a) pending
24 motion granted; (b) action dismissed for lack of prosecution; and (c) action dismissed based on
25 plaintiff’s failure to comply with these rules and a court order. Such failure shall result in a
26 recommendation that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

DATED: November 15, 2012


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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