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

HUMPHREY LAU,

Plaintiff,

No. 2:10-cv-2129 MCE DAD PS

v.

KATHI PYLMAN, et al,

Defendants.

ORDER

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On June 28, 2012, this matter came before the court for an Early Telephonic Settlement Conference. Plaintiff Humphrey Lau, who is proceeding pro se in this action, appeared telephonically on his own behalf.<sup>1</sup> Attorney Brent Kramer appeared telephonically for defendants Federal Home Loan Mortgage Corporation and Homesteps. The settlement conference was held and the matter did not settle.

On June 29, 2012, the court ordered plaintiff to file within 21 days a second amended complaint, or a notice of intention to proceed on the first amended complaint, and ordered defendants to file an answer or responsive pleading within 21 days of plaintiff's filing.

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<sup>1</sup> Accordingly, this matter has been referred to the undersigned for all purposes encompassed by Local Rule 302(c)(21).

1 (Doc. No. 44.) On July 20, 2012, plaintiff filed a second amended complaint. (Doc. No. 46.)  
2 On July 27, 2012, defendants filed a motion to dismiss the second amended complaint and set the  
3 matter for hearing before the undersigned on September 14, 2012. (Doc. No. 47.)

4           However, on August 10, 2012, the parties filed a joint stipulation requesting to  
5 continue the hearing of defendants' motion to dismiss so that the parties could conduct further  
6 settlement negotiations. (Doc. No. 48.) On August 22, 2012, the undersigned issued an order  
7 continuing the hearing of defendants' motion to dismiss to October 26, 2012, and ordered that  
8 any opposition to defendants' motion to dismiss be filed by plaintiff by October 12, 2012. (Doc.  
9 No. 49.) The October 12, 2012 deadline has past and plaintiff has not filed any opposition to  
10 defendants' motion to dismiss.

11           Pursuant to the Local Rules of Practice for the United States District Court for the  
12 Eastern District of California, opposition, if any, to the granting of a motion "shall be in writing  
13 and shall be filed and served not less than fourteen (14) days preceding the noticed (or continued)  
14 hearing date." Local Rule 230(c). "No party will be entitled to be heard in opposition to a  
15 motion at oral arguments if opposition to the motion has not been timely filed by that party." Id.  
16 Failure of a party to comply with the Local Rules or any order of the court "may be grounds for  
17 imposition by the Court of any and all sanctions authorized by statute or Rule or within the  
18 inherent power of the Court." Local Rule 110. Any individual representing himself or herself  
19 without an attorney is bound by the Federal Rules of Civil Procedure, the Local Rules, and all  
20 applicable law. Local Rule 183(a). Failure to comply with applicable rules and law may be  
21 grounds for dismissal or any other sanction appropriate under the Local Rules. Id.

22           Here, plaintiff has failed file opposition to defendants' motion to dismiss. In light  
23 of plaintiff's pro se status and in the interests of justice, the court will provide plaintiff with an  
24 opportunity to show good cause for his conduct along with a final opportunity to respond to  
25 defendants' pending motion.

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1                   Accordingly, IT IS HEREBY ORDERED that:

2                   1. Plaintiff shall show good cause in writing, no later than November 16, 2012,  
3 for failing to respond to defendants' motion and shall show why sanctions should not be imposed  
4 on him for failing to file timely opposition or non-opposition to the pending motion to dismiss;

5                   2. Any response to this order must be filed with the court and served on  
6 defendants' attorney of record; the response must be accompanied by opposition or a statement  
7 of non-opposition to defendants' motion to dismiss; if plaintiff files opposition to the motion, he  
8 must address all arguments presented in the motion;

9                   3. If plaintiff files opposition to defendants' motion on or before November 16,  
10 2012, defendants' reply, if any, shall be filed and served no later than November 26, 2012;

11                   4. Plaintiff is cautioned that failure to file and serve a written response to this  
12 order, along with opposition or a statement of non-opposition to defendants' motion, will be  
13 deemed a statement of non-opposition to the granting of defendants' motion to dismiss this  
14 action without leave to amend and will also constitute grounds for imposing appropriate  
15 sanctions, specifically the dismissal of this action with prejudice for failure to comply with court  
16 orders and applicable rules and for lack of prosecution. See Fed. R. Civ. P. 41(b); and

17                   5. The October 26, 2012 hearing of defendants' motion to dismiss is continued to  
18 **November 30, 2012 at 10:00 a.m. in Courtroom 27.**

19 DATED: October 19, 2012.

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23                   DALE A. DROZD  
24                   UNITED STATES MAGISTRATE JUDGE

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