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

YVONNE TRAVERSE,
RICHARD TRAVERSE,

Plaintiffs,

No. CIV S-10-2816 JAM EFB PS

vs.

NAM HOANG, D.D.S.; CHAPA DE
INDIAN HEALTH PROGRAM INC.;
and DOES 1-30,

Defendants.

ORDER AND
ORDER TO SHOW CAUSE

_____ /
This case, in which plaintiffs are 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 October 18, 2010, defendants removed this action from Placer County Superior Court pursuant to 42 U.S.C. § 233(c) and 28 U.S.C. §§ 1346, 1441(b), and 1446, on the basis that the action arises under the Federal Tort Claims Act, 28 U.S.C. § 1346(b). Dckt. No. 1 at 2. Then, on October 20, 2010, defendants moved to dismiss plaintiffs' complaint pursuant to Federal Rule of Civil Procedure 12(b)(1), and noticed the motion to be heard on December 1, 2010. Dckt. No. 5.

Court records reflect that plaintiffs have filed neither an opposition nor a statement of non-opposition to defendants' motion. 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

1 party, and filed with this court, no later than fourteen days preceding the noticed hearing date or,
2 in this instance, by November 17, 2010. Local Rule 230(c) further provides that “[n]o party will
3 be entitled to be heard in opposition to a motion at oral arguments if opposition to the motion has
4 not been timely filed by that party.”

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

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

15 1. The hearing on defendants’ motion to dismiss, Dckt. No. 5, is continued to January 5,
16 2011.

17 2. Plaintiffs shall show cause, in writing, no later than December 22, 2010, why
18 sanctions should not be imposed for failure to timely file an opposition or a statement of
19 non-opposition to the pending motion.

20 3. Plaintiffs shall file an opposition to the motion, or a statement of non-opposition
21 thereto, no later than December 22, 2010.

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

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5. Defendants may file a reply to plaintiffs' opposition(s), if any, on or before December 29, 2010.

SO ORDERED.

Dated: November 23, 2010.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE