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

PETER GRAVES,

Plaintiff,

No. 2:10-cv-3156 MCE KJN PS

v.

HILLARY RODHAM CLINTON  
and JAMES STEINBERG,

Defendants.

ORDER

\_\_\_\_\_ /  
The court is in receipt of plaintiff’s “Response to Summary Judgment,” which plaintiff filed on September 26, 2011.<sup>1</sup> Defendants’ motions to dismiss and for summary judgment are set to be heard on September 29, 2011. Plaintiff’s “response” constitutes plaintiff’s second written opposition to defendants’ motions, or a sur-reply. In either case, plaintiff’s filing violates this court’s order entered August 29, 2011, and the court’s Local Rules, which do not permit the filing of multiple opposition briefs or sur-reply briefs. (See Order, Aug. 29, 2011, at 2-3 (providing that “plaintiff shall file *only one written opposition* to defendants’ motion, and that opposition must be filed no later than September 15, 2011.”), Dkt. No. 67.)

Plaintiff has demonstrated a consistent inability to follow the court’s orders and

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<sup>1</sup> This action proceeds before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 Local Rules and the Federal Rules of Civil Procedure, and plaintiff's recent filing is simply one  
2 more example of plaintiff's complete and blatant disregard for the court's orders and the  
3 applicable rules of procedure. Although the undersigned previously warned plaintiff that his  
4 failure to comply with the court's orders, the court's Local Rules, or the Federal Rules of Civil  
5 Procedure would result in a recommendation that his case be dismissed with prejudice pursuant  
6 to Federal Rule of Civil Procedure 41(b),<sup>2</sup> the undersigned will nonetheless consider defendants'  
7 motions on the merits and hear those motions on September 29, 2011. *However*, pursuant to the  
8 order entered August 29, 2011, plaintiff's "Response to Summary Judgment" filed on  
9 September 26, 2011, is summarily disregarded and will not be considered in resolving  
10 defendants' pending motions.<sup>3</sup> (Order, Aug. 29, 2011, at 3 ("Plaintiff's failure to file a single,  
11 timely written opposition will result in a recommendation that plaintiff's case be dismissed with  
12 prejudice, and shall also constitute plaintiff's consent to the dismissal. Any documents filed by  
13 plaintiff after September 15th that are addressed to defendants' pending motions will be  
14 summarily disregarded." (emphasis omitted).)

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18 <sup>2</sup> (See Order, Aug. 29, 2011, at 6 ("If plaintiff files a written opposition, it must conform  
19 to the court's Local Rules, the Federal Rules of Civil Procedure, and the rules set forth in this  
20 order. *Plaintiff's failure to file a written opposition, or his failure to file a written opposition*  
21 *that conforms to the court's Local Rules, the Federal Rules of Civil Procedure, and the rules set*  
22 *forth in this order, will be deemed grounds for dismissal of this case and plaintiff's consent to*  
23 *the granting of the motions. As discussed in length above, plaintiff's failure to properly oppose*  
*defendants' motions shall constitute grounds for the imposition of appropriate sanctions,*  
*including a recommendation that plaintiff's case be involuntarily dismissed with prejudice*  
*pursuant to Federal Rule of Civil Procedure 41(b) and this court's Local Rules."))*

24 <sup>3</sup> On September 8, 2011, the district judge assigned to this case denied plaintiff's motion  
25 for reconsideration of the undersigned's order entered August 29, 2011. (Order, Sept. 8, 2011,  
26 at 3 ("All provisions of the Magistrate Judge's Order (ECF No. 67) remain in effect, including  
but not limited to the guidelines imposed for opposing (not later than September 15, 2011)  
Defendants' Motion to Dismiss and/or Motion for Summary Judgment (ECF No. 59) presently  
set for hearing on September 29, 2011."), Dkt. No. 70.)

1                   Accordingly, IT IS HEREBY ORDERED that pursuant the court's August 29,  
2 2011 order and the court's Local Rules, plaintiff's "Response to Summary Judgment" filed on  
3 September 26, 2011, shall be disregarded and not considered in resolving defendants' pending  
4 motion to dismiss and for summary judgment.

5                   IT IS SO ORDERED.

6 DATED: September 27, 2011

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9 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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