

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

MICHAEL MCARDLE,

Plaintiff,

No. CIV S-11-0814 LKK EFB (TEMP) PS

VS.

POWER DEFAULT SERVICES, et al.,

Defendants.

ORDER AND
ORDER TO SHOW CAUSE

This case, in which plaintiff is 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 March 31, 2011, defendant Power Default Services, Mortgage Electronic Registration Systems, Inc., U.S. Bank N.A. and American Home Mortgage Servicing, Inc. filed a motion to dismiss and re-noticed the motion for hearing before the undersigned on May 25, 2011. Dckt. Nos. 7, 11. On April 1, 2011, defendant Fidelity National Title Co. filed a motion to dismiss and also re-noticed the motion for hearing on May 25, 2011. Dckt. Nos. 9, 12.

Court records reflect that plaintiff has filed neither an opposition nor a statement of non-opposition to defendants' motions. 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 party, and filed with this court, no later than fourteen days preceding the noticed hearing date or,

1 in this instance, by May 11, 2011. Local Rule 230(c) further provides that “[n]o party will be
2 entitled to be heard in opposition to a motion at oral arguments if opposition to the motion has
3 not been timely filed by that party.”

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

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

14 1. The hearing on defendants’ motions to dismiss, Dckt. Nos. 7 and 9, is continued to
15 June 22, 2011.

16 2. Plaintiff shall show cause, in writing, no later than June 8, 2011, why sanctions should
17 not be imposed for failure to timely file an opposition or a statement of non-opposition to the
18 pending motions.

19 3. Plaintiff shall file an opposition to the motions, or a statement of non-opposition
20 thereto, no later than June 8, 2011.

21 4. Failure of plaintiff to file an opposition will be deemed a statement of non-opposition
22 to the pending motions, and may result in a recommendation that this action be dismissed for
23 lack of prosecution and/or for failure to comply with court orders and this court’s Local Rules.
24 *See* Fed. R. Civ. P. 41(b).

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1 5. Defendants may file a reply to plaintiffs' opposition(s), if any, on or before June 15,
2 2011.

3 SO ORDERED.

4 DATED: May 16, 2011.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE