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

TYRONE L. ADAMS,

Plaintiff,

No. CIV S-11-0913 JAM EFB PS

vs.

CHARLES L. EASLEY, et al.,

Defendants.

ORDER

\_\_\_\_\_ /  
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 June 22, 2011, several of the defendants in this action filed a motion to dismiss plaintiff’s first amended complaint and noticed the motion to be heard on August 3, 2011. Dckt. No. 10. On July 21, 2011, plaintiff filed an opposition to defendants’ motion to dismiss, Dckt. No. 18; a motion to amend his amended complaint, Dckt. No. 17; and a motion to appear telephonically at the August 3 hearing, Dckt. No. 19.

Local Rule 230(e) provides that related or counter-motions “shall be served and filed in the manner and on the date prescribed for the filing of opposition” and assumes that, unless the court finds that a continuance is warranted, related motions will be heard on the same day as the original motion. E.D. Cal. L.R. 230(e) (“Any counter-motion or other motion that a party may

1 desire to make that is related to the general subject matter of the original motion shall be served  
2 and filed in the manner and on the date prescribed for the filing of opposition. If a  
3 counter-motion or other related motion is filed, the Court may continue the hearing on the  
4 original and all related motions so as to give all parties reasonable opportunity to serve and file  
5 oppositions and replies to all pending motions.”). Because plaintiff’s motion to amend his  
6 amended complaint, Dckt. No. 17, relates to the motion to dismiss that is currently scheduled for  
7 hearing on August 3, Dckt. No. 10, the hearing on that motion to dismiss will be continued in  
8 order to give defendants an opportunity to respond to the motion to amend. Accordingly,  
9 plaintiff’s motion to appear telephonically at the August 3 hearing, Dckt. No. 19, will be denied  
10 as moot.

11 Also on July 21, 2011, plaintiff filed a motion for an extension of time to serve some of  
12 the unserved defendants. Dckt. No. 16. Rule 4(m) provides that “[i]f service of the summons  
13 and complaint is not made upon a defendant within 120 days after the filing of the complaint, the  
14 court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action  
15 without prejudice as to that defendant or direct that service be effected within a specified time;  
16 provided that if the plaintiff shows good cause for the failure, the court shall extend the time for  
17 service for an appropriate period.” For the reasons provided in plaintiff’s motion for an  
18 extension of time to serve, plaintiff will be given a limited extension of time to serve any  
19 remaining unserved defendants.

20 Accordingly, IT IS HEREBY ORDERED that:

21 1. The hearing on defendants’ motion to dismiss, Dckt. No. 10, is continued to  
22 September 7, 2011 at 10:00 a.m. in Courtroom No. 24.

23 2. Plaintiff’s motion to amend, Dckt. No. 17, will also be heard on September 7, 2011 at  
24 10:00 a.m. in Courtroom No. 24.

25 3. On or before August 24, 2011, defendants shall file an opposition or statement of non-  
26 opposition to plaintiff’s motion to amend.

1 4. On or before August 31, 2011, plaintiff may file a reply to any opposition filed by  
2 defendants.

3 5. On or before August 31, 2011, defendants may file a reply to plaintiff's opposition to  
4 defendants' motion to dismiss.

5 6. Plaintiff's motion to appear telephonically at the August 3 hearing, Dckt. No. 19, is  
6 denied as moot.

7 7. Plaintiff's motion for an extension of time to serve some of the unserved defendants,  
8 Dckt. No. 16, is granted. Plaintiff has until November 2, 2011 to serve any remaining unserved  
9 defendants and file a proof of such service with the court.

10 8. The status conference currently scheduled for August 17, 2011, is rescheduled for  
11 December 21, 2011 at 10:00 a.m. in Courtroom No. 24.

12 9. On or before December 7, 2011, the parties shall file status reports addressing the  
13 matters referenced in the court's April 5, 2011 order.

14 SO ORDERED.

15 Dated: July 25, 2011.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE