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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES ARMSTEAD,  
Plaintiff,  
v.  
TIM V. VIRGA, et al.,  
Defendants.

No. 2: 11-cv-1054 JAM KJN P

FINDINGS & RECOMMENDATIONS

On July 12, 2013, defendants Virga and Mini filed a motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). Plaintiff did not oppose the motion.

Local Rule 230(l) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion ....” On September 22, 2011, plaintiff was advised of the requirements for filing an opposition to the motion and that failure to oppose such a motion may be deemed a waiver of opposition to the motion.

Local Rule 110 provides that failure to comply with the Local Rules “may be grounds for imposition of any and all sanctions authorized by statute or Rule or within the inherent power of the Court.” In the order filed September 22, 2011, plaintiff was advised the failure to comply with the Local Rules may result in a recommendation that this action be dismissed.

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1 On August 16, 2013, the court granted plaintiff twenty-one days to file an opposition to  
2 defendants' motion for judgment on the pleadings. Plaintiff was advised that failure to file an  
3 opposition would be deemed as a statement of non-opposition and would result in a  
4 recommendation that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).  
5 Twenty-one days passed and plaintiff did not file an opposition or otherwise respond to the  
6 August 16, 2013 order.

7 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without  
8 prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

9 These findings and recommendations are submitted to the United States District Judge  
10 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
11 after being served with these findings and recommendations, plaintiff may file written objections  
12 with the court. The document should be captioned "Objections to Magistrate Judge's Findings  
13 and Recommendations." Plaintiff is advised that failure to file objections within the specified  
14 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153  
15 (9th Cir. 1991).

16 Dated: September 20, 2013

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE