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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER D. SCHNEIDER,

Plaintiff,

v.

BANK OF AMERICA N.A, BANK OF
AMERICA MORTGAGE, BANK OF
AMERICA HOME LOANS SERVICING
LP, BALBOA INSURANCE CO., HOME
RETENTION GROUP, QUALITY
RETENTION GROUP, QUALITY LOAN
SERVICE CORP., CLIFF COLER, DOES
1-40,

Defendants.

No. 2:11-cv-2953-JAM-EFB PS

ORDER TO SHOW CAUSE

On May 19, 2015, defendants Bank of America, N.A.; Balboa Insurance Company; and Federal Home Loan Mortgage Corporation (“defendants”) filed a motion to dismiss this action due to plaintiff’s failure to attend his deposition or, in the alternative, to compel plaintiff’s attendance at his deposition. ECF No. 207. Defendants noticed their motion for hearing on June 3, 2015. *Id.* The matter was subsequently continued to June 17, 2015, so it could be heard at the same time as plaintiff’s pending motion to preserve evidence. *See* ECF Nos. 205, 209.

Plaintiff failed to attend his deposition as ordered by this court, and accordingly Local Rule 251(e) applies. *See* E.D. Cal. L.R. 251(e) (providing that the requirement that the parties

1 file a Joint Statement re Discovery Disagreement does not apply “when there has been a complete
2 and total failure to respond to a discovery request or order.”). Under Local Rule 251(e), a
3 responding party must file a response to the discovery motion at issue no later than seven days
4 before the hearing date, or in this instance by June 10, 2015. The deadline has passed and
5 plaintiff has failed to file any response to defendants’ motion.

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

15 Accordingly, good cause appearing, it is hereby ORDERED that:

16 1. The hearing on defendants’ motion (ECF No. 207) and plaintiff’s motion to preserve
17 evidence (ECF No. 205) is continued to July 1, 2015 at 10:00 a.m. in Courtroom No. 8.

18 2. Plaintiff shall show cause, in writing, no later than June 24, 2015, why sanctions
19 should not be imposed for failure to timely file an opposition or a statement of non-opposition to
20 defendants’ motion.

21 3. Plaintiff shall file an opposition to the motion, or a statement of non-opposition thereto,
22 no later than June 24, 2015.

23 4. Failure of to file an opposition to the motion will be deemed a statement of non-
24 opposition thereto, and may result in the granting of defendants’ motion.

25 5. Defendants may file a reply to plaintiff’s opposition, if any, on or before June 29,
26 2015.

27 DATED: June 11, 2015.

28 
EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE