

1 failed to file a written opposition or statement of non-opposition with respect to the motion for
2 summary judgment.

3 Eastern District Local Rule 110 provides that “[f]ailure of counsel or of a party to comply
4 with these Rules or with any order of the Court may be grounds for imposition by the Court of
5 any and all sanctions authorized by statute or Rule or within the inherent power of the Court.”

6 Moreover, Eastern District Local Rule 183(a) provides, in part:

7 Any individual representing himself or herself without an attorney
8 is bound by the Federal Rules of Civil or Criminal Procedure, these
9 Rules, and all other applicable law. All obligations placed on
10 “counsel” by these Rules apply to individuals appearing in propria
11 persona. Failure to comply therewith may be ground for dismissal,
12 judgment by default, or any other sanction appropriate under these
13 Rules.

14 See also King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987) (“Pro se litigants must follow the
15 same rules of procedure that govern other litigants”) (overruled on other grounds). Case law is in
16 accord that a district court may impose sanctions, including involuntary dismissal of a plaintiff’s
17 case pursuant to Federal Rule of Civil Procedure 41(b), where that plaintiff fails to prosecute his
18 or her case or fails to comply with the court’s orders, the Federal Rules of Civil Procedure, or the
19 court’s local rules. See Chambers v. NASCO, Inc., 501 U.S. 32, 44 (1991) (recognizing that a
20 court “may act sua sponte to dismiss a suit for failure to prosecute”); Hells Canyon Preservation
21 Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005) (stating that courts may dismiss
22 an action pursuant to Federal Rule of Civil Procedure 41(b) sua sponte for a plaintiff’s failure to
23 prosecute or comply with the rules of civil procedure or the court’s orders); Ghazali v. Moran, 46
24 F.3d 52, 53 (9th Cir. 1995) (per curiam) (“Failure to follow a district court’s local rules is a

25 **(c) Opposition and Non-Opposition.** Opposition, if any, to the
26 granting of the motion shall be in writing and shall be filed and
27 served not less than fourteen (14) days preceding the noticed (or
28 continued) hearing date. A responding party who has no opposition
to the granting of the motion shall serve and file a statement to that
effect, specifically designating the motion in question. No party
will be entitled to be heard in opposition to a motion at oral
arguments if opposition to the motion has not been timely filed by
that party. . . .

1 proper ground for dismissal”); Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992)
2 (“Pursuant to Federal Rule of Civil Procedure 41(b), the district court may dismiss an action for
3 failure to comply with any order of the court”); Thompson v. Housing Auth. of City of L.A., 782
4 F.2d 829, 831 (9th Cir. 1986) (per curiam) (stating that district courts have inherent power to
5 control their dockets and may impose sanctions including dismissal or default).

6 In light of plaintiff’s pro se status and the court’s desire to resolve plaintiff’s claims on the
7 merits, the court finds it appropriate to provide plaintiff with one final additional opportunity to
8 oppose defendant Amtrak’s motion for summary judgment, if plaintiff intends to do so. The court
9 will also modify the August 10, 2012 pretrial scheduling order (ECF No. 17) and extend the law
10 and motion completion deadline, which is presently set for September 19, 2013, for the *limited*
11 *purpose* of permitting a continued hearing and briefing schedule on Amtrak’s pending motion for
12 summary judgment. All other deadlines in the August 10, 2012 pretrial scheduling order will
13 remain unchanged, subject to any further order of the court.

14 If plaintiff elects to oppose the motion for summary judgment, plaintiff shall file his
15 opposition and supporting materials in compliance with Local Rule 260. In particular, Local Rule
16 260(b) provides, in part, that:

17 Any party opposing a motion for summary judgment or summary
18 adjudication shall reproduce the itemized facts in the Statement of
19 Undisputed Facts and admit those facts that are undisputed and
20 deny those that are disputed, including with each denial a citation to
21 the particular portions of any pleading, affidavit, deposition,
22 interrogatory answer, admission, or other document relied upon in
23 support of that denial. The opposing party may also file a concise
“Statement of Disputed Facts,” and the source thereof in the record,
of all additional material facts as to which there is a genuine issue
precluding summary judgment or adjudication. The opposing party
shall be responsible for the filing of all evidentiary documents cited
in the opposing papers. See L.R. 133(j).

24 E.D. Cal. L.R. 260(b).³ Failure to comply with these provisions may result in any appropriate
25 sanctions, including that defendant Amtrak’s proposed undisputed facts be deemed undisputed for
26 purposes of the motion for summary judgment.

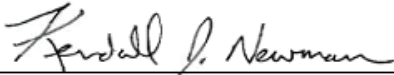
27 _____
28 ³ A copy of the court’s Local Rules can be obtained from the Clerk’s Office or on the court’s
website at <http://www.caed.uscourts.gov>.

1 Accordingly, for the reasons outlined above, IT IS HEREBY ORDERED that:

- 2 1. The September 19, 2013 hearing on defendant Amtrak's motion for summary
3 judgment is VACATED and CONTINUED to Thursday November 7, 2013 at 10:00
4 a.m. in Courtroom No. 25 before the undersigned.
- 5 2. Plaintiff shall file any opposition in accordance with this order, the Federal Rules of
6 Civil Procedure, and the Local Rules *no later than October 10, 2013*. Alternatively,
7 plaintiff may file a statement of non-opposition to the motion for summary judgment
8 no later than October 10, 2013.
- 9 3. Defendant Amtrak may file a reply brief to plaintiff's opposition, if any, no later than
10 October 24, 2013. No further briefing will be permitted, unless requested by the court.
- 11 4. The law and motion completion deadline, which is presently set for September 19,
12 2013, is extended to November 7, 2013 for the *limited purpose* of permitting a
13 continued hearing and briefing schedule on Amtrak's pending motion for summary
14 judgment. All other deadlines in the August 10, 2012 pretrial scheduling order will
15 remain unchanged, subject to any further order of the court.
- 16 5. *Plaintiff is cautioned that failure to file a timely and compliant opposition or*
17 *statement of non-opposition to the motion for summary judgment will be deemed a*
18 *statement of non-opposition to the motion, and may result in dismissal of the entire*
19 *action with prejudice pursuant to Federal Rule of Civil Procedure 41(b).*

20 IT IS SO ORDERED.

21 Dated: September 9, 2013

22 
23 KENDALL J. NEWMAN
24 UNITED STATES MAGISTRATE JUDGE