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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WINSTON KEMPER,
Plaintiff,
v.
DR. CROSSON, et al.,
Defendants.

No. 2:14-cv-0305 TLN KJN P

ORDER

On April 29, 2016, defendant Pai filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12. Plaintiff has not opposed 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” Id. On March 4, 2015, plaintiff was advised of the requirements for filing an opposition to a 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.” Id. In the order filed March 4, 2015, plaintiff was also advised that failure to comply with the Local Rules may result in a recommendation that the action be dismissed.

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Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

Involuntary Dismissal; Effect. If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19--operates as an adjudication on the merits.

Id.

Good cause appearing, IT IS HEREBY ORDERED that, within fourteen days from the date of this order, plaintiff shall file an opposition, if any, to the motion to dismiss. Failure to file an opposition will be deemed as consent to have the: (a) plaintiff's claims against Dr. Pai dismissed for lack of prosecution; and (b) the action dismissed based on plaintiff's failure to comply with these rules and a court order. Such failure shall result in a recommendation that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

Dated: June 10, 2016


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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