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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHNATHAN EARL DANNER,  
Plaintiff,  
v.  
COUNTY OF SAN JOAQUIN, et al.,  
Defendants.

No. 2:15-cv-887-MCE-EFB PS  
ORDER AND ORDER TO SHOW CAUSE

Defendants have filed a motion for summary judgment, which is currently noticed for hearing on July 26, 2017.<sup>1</sup> ECF Nos. 40, 42. Court records reflect that plaintiff has not filed an opposition or statement of non-opposition to the pending motion.

Local Rule 230(c) provides that opposition to the granting of a motion, or a statement of non-opposition thereto, must be served upon the moving party, and filed with this court, no later than fourteen days preceding the noticed hearing date or, in this instance, by July 12, 2017. Local Rule 230(c) further provides that “[n]o 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.” Additionally, Local Rule 260(b) provides that “[a]ny party opposing a motion for summary judgment or summary adjudication shall reproduce the itemized facts in the Statement of

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<sup>1</sup> 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).

1 Undisputed Facts and admit those facts that are undisputed and deny those that are disputed,  
2 including with each denial a citation to the particular portions of any pleading, affidavit,  
3 deposition, interrogatory answer, admission, or other document relied upon in support of that  
4 denial.” Local Rule 260(b) further provides that “[t]he opposing party may also file a concise  
5 ‘Statement of Disputed Facts,’ and the source thereof in the record, of all additional material facts  
6 as to which there is a genuine issue precluding summary judgment or adjudication,” and that  
7 “[t]he opposing party shall be responsible for the filing of all evidentiary documents cited in the  
8 opposing papers.”

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

18 Because plaintiff has failed to file an opposition or statement of non-opposition to  
19 defendants’ motion for summary judgment, as required by Local Rule 230, and has failed to  
20 respond to defendants’ statement of undisputed facts, as required by Local Rule 260, the hearing  
21 on defendants’ motion for summary judgment must be continued. Plaintiff is ordered to show  
22 cause why sanctions should not be imposed for failure to timely file an opposition or a statement  
23 of non-opposition to the pending motion and for failure to timely file a response to defendants’  
24 statement of undisputed facts. Plaintiff is also ordered to file an opposition to the motion or a  
25 statement of non-opposition thereto and a response to defendants’ statement of undisputed facts.  
26 Failure to comply with this order may result in a recommendation that defendants’ motion for  
27 summary judgment be granted and/or the case dismissed for failure to comply with court orders  
28 and this court’s Local Rules. *See Fed. R. Civ. P. 41(b).*

1           The court informs plaintiff of the following with respect to opposing a motion for  
2 summary judgment under Federal Rule of Civil Procedure 56: Such a motion is a request that the  
3 court grant judgment in defendant's favor without trial. A motion for summary judgment will set  
4 forth the facts that defendant asserts are not reasonably subject to dispute and that entitle it to  
5 judgment under applicable law. To oppose a motion for summary judgment, plaintiff may file  
6 one or more affidavits or declarations setting forth the material facts that plaintiff believes are  
7 subject to reasonable dispute, as long as the person who signs it has personal knowledge of the  
8 facts stated. Plaintiff may rely on written records, but he must prove they are what plaintiff assert  
9 them to be. Plaintiff may rely on all or any part of responses to discovery propounded in this  
10 case, i.e., answers to interrogatories, admissions and deposition transcripts. If plaintiff fails to  
11 contradict defendant's evidence with counter-affidavits or other admissible evidence, the court  
12 may accept defendant's evidence as true and grant the motion. If there is good reason why such  
13 facts are not available to plaintiff when they are required to oppose a motion for summary  
14 judgment, the court will consider a request to postpone considering the motion. If plaintiff does  
15 not file a written opposition to the motion or a request to postpone consideration of it, the court  
16 may consider the failure to act as a waiver of opposition to the defendant's motion. If the court  
17 grants defendant's motion, whether opposed or unopposed, judgment will be entered for  
18 defendant without a trial and the case will be closed.

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

20           1. The hearing on defendants' motion for summary judgment (ECF Nos. 40) is continued  
21 to September 6, 2017.

22           2. Plaintiff shall show cause, in writing, no later than August 23, 2017, why sanctions  
23 should not be imposed for failure to timely file an opposition or a statement of non-opposition to  
24 the pending motion.

25           3. Plaintiff shall file an opposition to the motion, or a statement of non-opposition thereto,  
26 no later than August 23, 2017.

27           4. Failure of plaintiff to file an opposition to the motion will be deemed a statement of  
28 non-opposition thereto, and may result in a recommendation that defendants' motion be granted

1 and/or the case dismissed for failure to comply with court orders and this court's Local Rules.  
2 See Fed. R. Civ. P. 41(b).

3 5. Defendants may file a reply to plaintiff's opposition, if any, on or before August 30,  
4 2017.

5 DATED: July 17, 2017.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE

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