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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARMANDO GIL,
Plaintiff,
v.
S. SPALDING, et al.,
Defendants.

No. 2:16-cv-0587 GEB KJN P

ORDER

On July 13, 2017, defendants filed a motion for summary judgment on the issue of exhaustion pursuant to Federal Rule of Civil Procedure 56, and a motion to stay discovery pending resolution of the motion for summary judgment. Plaintiff has not opposed either 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 November 4, 2016, and July 13, 2017, 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. See Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998) (en banc), and Klinge v. Eikenberry, 849 F.2d 409, 411-12 (9th Cir. 1988).

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

1 the Court.” Id. In the order filed November 4, 2016, plaintiff was also advised that failure to
2 comply with the Local Rules may result in a recommendation that the action be dismissed.

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

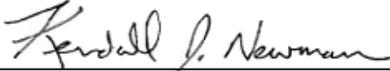
4 **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute or
5 to comply with these rules or a court order, a defendant may move
6 to dismiss the action or any claim against it. Unless the dismissal
7 order states otherwise, a dismissal under this subdivision (b) and
8 any dismissal not under this rule--except one for lack of
9 jurisdiction, improper venue, or failure to join a party under Rule
10 19--operates as an adjudication on the merits.

11 Id.

12 Good cause appearing, IT IS HEREBY ORDERED that, within thirty days from the date
13 of this order, plaintiff shall file an opposition, if any, to the motion for summary judgment.
14 Failure to file an opposition will be deemed as consent to have the: (a) action dismissed for lack
15 of prosecution; and (b) action dismissed based on plaintiff’s failure to comply with these rules
16 and a court order. Such failure shall result in a recommendation that this action be dismissed
17 pursuant to Federal Rule of Civil Procedure 41(b).

18 Further, IT IS ORDERED that defendants’ motion to stay discovery (ECF No. 44) is
19 granted; defendants are relieved of their obligation to respond to plaintiff’s discovery pertaining
20 to the merits of his claims, and all discovery is stayed, pending resolution of the instant motion
21 for summary judgment.

22 Dated: August 22, 2017

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

gil0587.nop+stay