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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROGER TOWERS & CATHERINE
TOWERS,

 Plaintiffs,

 v.

CARLOS VILLAPUDUA, et al.,

 Defendants.

No. 2:16-cv-2417-MCE-KJN PS

ORDER

Plaintiffs initially commenced this action and paid the filing fee on October 11, 2016. (ECF No. 1.) Presently pending before the court are multiple motions to dismiss and a motion to strike filed by several defendants in this action, which were noticed for hearing on December 15, 2016. (ECF Nos. 5, 8, 15, 16, 17, 18, 20.) Pursuant to Local Rule 230(c), plaintiffs were required to file an opposition or statement of non-opposition to the motions no later than fourteen (14) days prior to the hearing, i.e., by December 1, 2016. Although that deadline has now passed, the court has yet to receive a responsive filing from plaintiffs.

The court has considered whether the action should be dismissed at this juncture. However, in light of plaintiffs’ *pro se* status and the court’s desire to resolve the action on the merits, the court grants plaintiffs an additional opportunity to oppose the motions, if they desire to do so. Alternatively, if plaintiffs determine that they no longer wish to pursue this action in

1 federal court, they may instead file a request for voluntary dismissal of the action without
2 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

3 The court also notes that several of the appearing defendants have consented to the
4 jurisdiction of a United States Magistrate Judge for all purposes, including the entry of final
5 judgment, pursuant to 28 U.S.C. § 636(c). Therefore, within 21 days of this order, plaintiffs and
6 any remaining appearing defendants shall file a brief statement indicating whether or not they
7 consent to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).
8 Importantly, the parties are under no obligation to so consent, but the designation merely assists
9 the court in determining how the action will be administratively processed.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The December 15, 2016 hearing on the pending motions to dismiss and motion to
12 strike is VACATED.
- 13 2. No later than January 5, 2017, plaintiffs shall file either an opposition to the pending
14 motions or a request for voluntary dismissal of the action without prejudice.
- 15 3. Defendants shall file any reply briefs no later than January 19, 2017.
- 16 4. No further briefing will be permitted, unless specifically requested by the court. After
17 review of the parties' written briefing, the court will schedule a hearing on the
18 motions, if deemed necessary.
- 19 5. Plaintiffs are cautioned that failure to file an opposition to the pending motions or a
20 request for voluntary dismissal of the action without prejudice by the required
21 deadline may result in dismissal of the action with prejudice pursuant to Federal Rule
22 of Civil Procedure 41(b).
- 23 6. Within 21 days of this order, all parties who have appeared in the action shall file a
24 brief statement indicating whether or not they consent to the jurisdiction of a United
25 States Magistrate Judge for all purposes, including the entry of final judgment,
26 pursuant to 28 U.S.C. § 636(c).

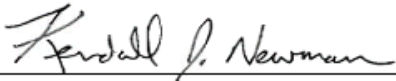
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IT IS SO ORDERED.

Dated: December 5, 2016


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE