

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD McMAHON; STACI
McMAHON,

Plaintiffs,

v.

NBS DEFAULT SERVICES, LLC;
WELLS FARGO BANK, N.A.; FIRST
AMERICAN TITLE COMPANY; and
DOES 1 THROUGH 50, inclusive,

Defendants.

No. 2:17-cv-2493-TLN-EFB PS

ORDER AND ORDER TO SHOW CAUSE

Defendants Wells Fargo Bank, N.A. (“Wells Fargo”) and First American Title Company (“First American”) have moved to dismiss plaintiffs’ complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 4, 7. The motions are currently set for hearing on January 31, 2018. ECF Nos. 7, 9. Plaintiffs filed an opposition to Wells Fargo’s motion (ECF No. 6), but they have not filed an opposition or statement of non-opposition to First American’s 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 January 17, 2018. 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.”

1 Local Rule 183, governing persons appearing in pro se, provides that failure to comply with the
2 Federal Rules of Civil Procedure and Local Rules may be grounds for dismissal, judgment by
3 default, or other appropriate sanctions. Local Rule 110 provides that failure to comply with the
4 Local Rules “may be grounds for imposition by the Court of any and all sanctions authorized by
5 statute or Rule or within the inherent power of the Court.” *See also Ghazali v. Moran*, 46 F.3d
6 52, 53 (9th Cir. 1995) (“Failure to follow a district court’s local rules is a proper ground for
7 dismissal.”). Pro se litigants are bound by the rules of procedure, even though pleadings are
8 liberally construed in their favor. *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987).

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

10 1. The hearing on defendants’ motions to dismiss (ECF No. 4, 7) is continued to February
11 21, 2018 at 10:00 a.m. in Courtroom No. 8.

12 2. Plaintiffs shall show cause, in writing, no later than February 7, 2018, why sanctions
13 should not be imposed for failure to timely file an opposition or a statement of non-opposition to
14 First American’s motion to dismiss.

15 3. Plaintiffs shall file an opposition to the motion, or a statement of non-opposition
16 thereto, no later than February 7, 2018.

17 4. Failure to file an opposition to the motion will be deemed a statement of non-
18 opposition thereto, and may result in a recommendation that this action be dismissed for lack of
19 prosecution and/or for failure to comply with court orders and this court’s Local Rules. *See Fed.*
20 *R. Civ. P. 41(b)*.

21 5. Defendants may file a reply to plaintiffs’ opposition, if any, on or before February 14,
22 2018.

23 DATED: January 23, 2018.

24 
EDMUND F. BRENNAN
25 UNITED STATES MAGISTRATE JUDGE
26
27
28