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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD P. DAVIS, Executor for the
Estate of Edward V. Davis,

Plaintiffs,

v.

NATIONSTAR MORTGAGE, LLC d/b/a
CHAMPION MORTGAGE COMPANY
and 1 or more JOHN or JANE DOES,

Defendant.

No. 2:18-cv-1083-TLN-EFB PS

ORDER AND ORDER TO SHOW CAUSE

Defendant has filed a motion to dismiss the first amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), which is noticed for hearing on September 12, 2018. ECF Nos. 7, 12. Court records reflect that plaintiff has not filed an opposition or statement of non-opposition to the 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 August 29, 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.” Local Rule 183, governing persons appearing in pro se, provides that failure to comply with the

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

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

9 1. The hearing on defendant’s motion to dismiss (ECF No. 7) is continued to October 24,
10 2018 at 10:00 a.m. in Courtroom No. 8.


11 2. Plaintiff shall show cause, in writing, no later than October 10, 2018, why sanctions
12 should not be imposed for failure to timely file an opposition or a statement of non-opposition to
13 defendant’s motion.

14 3. Plaintiff shall file an opposition to the motion, or a statement of non-opposition thereto,
15 no later than October 10, 2018.

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

20 5. Defendant may file a reply to plaintiff’s opposition, if any, on or before October 17,
21 2018.

22 DATED: September 5, 2018.

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24 EDMUND F. BRENNAN
25 UNITED STATES MAGISTRATE JUDGE
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