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2 UNITED STATES DISTRICT COURT  
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
4 OAKLAND DIVISION  
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6 FRED HAMPTON, et al.,

7 Plaintiffs,

8 vs.

9 CITY OF OAKLAND, et al.,

10 Defendants.  
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Case No: C 13-03094 SBA

**ORDER DIRECTING PLAINTIFFS  
TO FILE RESPONSE TO  
DEFENDANTS' MOTIONS TO  
DISMISS**

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13 On August 1, 2013, Defendants City of Oakland and City of Emeryville filed  
14 separate motions to dismiss under Federal Rule of Civil Procedure 12(b)(6). Dkt. 9, 10.  
15 Under Civil Local Rule 7-3(a), an opposition to a motion must be filed within fourteen days  
16 of the date the motion was filed, and the reply is due seven days thereafter. Plaintiffs'  
17 responses to the pending motions should thus have been filed by no later than August 15,  
18 2013. To date, Plaintiffs have not filed any responses to Defendants' motions.

19 This Court's Standing Orders warn that the failure to file a response to a motion may  
20 be construed as consent to the relief sought in the unopposed motion. As such, the Court is  
21 well within its discretion to dismiss the action with prejudice. See Fed. R. Civ. P. 41(b);  
22 Al-Torki v. Kaempfen, 78 F.3d 1381, 1385 (9th Cir. 1996). Nevertheless, mindful of its  
23 obligation to first consider to less drastic alternatives, the Court will afford Plaintiffs one  
24 further opportunity to respond to the pending motions. Accordingly,


25 IT IS HEREBY ORDERED THAT Plaintiffs shall have until August 21, 2013 to file  
26 and serve their responses (i.e., either an opposition or a statement of non-opposition) to  
27 Defendants' Rule 12(b)(6) motions to dismiss. Plaintiffs' responses shall comply in all  
28 respects with the Federal Rules of Civil Procedure and the Court's Civil Local Rules

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1 including, without limitation, Civil Local Rules 7-3 through 7-5. Prior to filing their  
2 responses, counsel shall meet and confer in person or by telephone with Defendants'  
3 counsel, as specified in Civil Local Rule 1-5(n). In addition, Plaintiffs' responses shall  
4 include a certification that they have complied with the meet and confer requirement.  
5 **PLAINTIFFS ARE WARNED THAT THE FAILURE TO FILE A RESPONSE BY**  
6 **THIS DEADLINE AND/OR TO COMPLY WITH THIS ORDER OR ANY OTHER**  
7 **APPLICABLE PROCEDURAL RULES WILL RESULT IN THE GRANTING OF**  
8 **THE PENDING MOTIONS AND THE DISMISSAL OF THIS ACTION.** In the event  
9 Plaintiffs timely file responses to the pending motions, Defendants may file a reply within  
10 seven days after the deadline for Plaintiffs' responses are filed.

11 IT IS SO ORDERED.

12 Dated: 8/16/13

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

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