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2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4 OAKLAND DIVISION
5

6 MASSOUD JAVIDI,

7 Plaintiff,

8 vs.

9 SUPERIOR COURT, FAMILY COURT
10 CONTRA COSTA COUNTY, et al.,

11 Defendants.

Case No: 21-cv-05393 SBA

**ORDER DIRECTING PLAINTIFF
TO FILE RESPONSE TO
DEFENDANT SUPERIOR
COURT'S MOTION TO DISMISS**

12 Plaintiff Massoud Javidi ("Plaintiff"), proceeding pro se, brings the instant action
13 against Defendants Superior Court, Family Court Contra Costa County (the "Superior
14 Court") and Shirin Farokhian ("Farokhian"). Plaintiff filed his initial Complaint on July
15 14, 2021, Dkt. 1, and filed the operative Amended Complaint on November 9, 2021, Dkt. 6.

16 On December 1, 2021, the Superior Court filed a motion to dismiss Plaintiff's
17 Amended Complaint. Dkt. 10. The motion is noticed for hearing on January 12, 2022.
18 Pursuant to Civil Local Rule 7-3(a), a response to the motion was due fourteen days after
19 the date it was filed. Accordingly, Plaintiff's response to the motion was due by no later
20 than December 15, 2021. Plaintiff did not timely file a response.

21 On December 22, 2021, the Superior Court filed a notice of non-opposition,
22 requesting that the Court grant its motion as unopposed. Dkt. 11. That same day, Plaintiff
23 filed a document titled "Plaintiff Opposes the No Opposition to Dismissal (Opposes
24 Dismissal Request by the Counsel)." Dkt. 12. On December 28, he filed an amended
25 version of the same document. Dkt. 13. The filing does not appear to constitute his
26 opposition to the motion to dismiss, however. Specifically, Plaintiff asserts it was his
27 "understanding" that a response to the motion was "optional" at this stage of the
28 proceedings. *Id.* at 2. He further states that he "will provide a more detailed response if

1 required by the court,” although he then provides “brief comments,” some of which appear
2 to address the merits of the motion to dismiss. Id. at 3.

3 The Court’s Civil Standing Order warns that the failure to file a timely response to a
4 motion may be construed as consent to the relief sought in the motion. See Dkt. 2, Civil
5 Standing Order ¶ 7. Consequently, it is within the Court’s discretion to grant the Superior
6 Court’s motion to dismiss as unopposed. See Fed. R. Civ. P. 41(b); Ghazali v. Moran, 46
7 F.3d 52, 53 (9th Cir. 1995) (affirming dismissal of pro se action for failure to oppose a
8 motion to dismiss). Mindful of its obligation to consider less drastic alternatives, however,
9 and in view of Plaintiff’s recent filing and stated intent to oppose the motion to dismiss, the
10 Court will afford Plaintiff a further opportunity to respond to the motion.

11 Accordingly,

12 IT IS HEREBY ORDERED THAT:

13 1. Plaintiff shall file and serve his opposition to the Superior Court’s motion to
14 dismiss by January 21, 2022. Plaintiff is reminded that pro se litigants are required to
15 comply with this Court’s orders, as well as all applicable procedural rules, including the
16 Federal Rules of Civil Procedure, the Civil Local Rules, and this Court’s Standing Orders.
17 See King v. Atiyeh, 814 F.2d 556, 567 (9th Cir. 1987). **IF PLAINTIFF FAILS TO FILE**
18 **A TIMELY RESPONSE TO THE MOTION OR TO COMPLY WITH ALL**
19 **APPLICABLE PROCEDURAL RULES, THE MOTION MAY BE GRANTED**
20 **AND/OR THE ACTION MAY BE DISMISSED WITHOUT FURTHER NOTICE.**

21 2. If Plaintiff files a response to the motion within the time prescribed, the
22 Superior Court shall have until January 28, 2022 to file a reply.

23 3. Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-
24 1(b), the Court will resolve the motion without oral argument. The hearing set for January
25 12, 2022 is VACATED.

26 IT IS SO ORDERED.

27 Dated: January 10, 2022

28  RS
Richard Seeborg for Sandra B. Armstrong
United States District Judge