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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DAVID WISE, an individual;
CHRISTINA WISE, an individual,

Plaintiff,

vs.

CASE NO. 12cv1209-GPC(BGS)

**NOTICE RE: PLAINTIFFS'
FAILURE TO FILE AN
OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS**

DANIEL NORDELL, in his individual
and official capacity; JIM KOERBER,
in his official capacity; BONNIE
DUMANIS, in her official capacity;
THE SAN DIEGO DISTRICT
ATTORNEY'S OFFICE; ANGELA
CHANG, in her individual and official
capacity; THE COUNTY OF SAN
DIEGO; THE CALIFORNIA BOARD
OF MEDICAL EXAMINERS; DOES
1-50,

Defendants.

On July 27, 2017, the Court lifted the stay in this matter and set a briefing schedule on Defendants' motion to dismiss. (Dkt. No. 86.) Pursuant to the scheduling order, on August 9, 2017, Defendants¹ County of San Diego, District Attorney Bonnie Dumanis, Deputy District Attorney Jim Koerber and District Attorney Investigator Daniel Nordell filed a motion to dismiss the first amended complaint. (Dkt. No. 88.)

¹Defendant Angela Chang did not file a motion to dismiss.


1 To date, Plaintiffs have not filed an opposition.²

2 Civil Local Rule 7.1.e.2. requires a party opposing a motion to file an opposition
3 or statement of non-opposition within fourteen calendar days of the noticed hearing.
4 Failure to comply with these rules “may constitute a consent to the granting of a
5 motion.” Civ. Local R. 7.1.f.3.c. District courts have broad discretion to enact and
6 apply local rules, including dismissal of a case for failure to comply with the local
7 rules. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995) (affirming grant of an
8 unopposed motion to dismiss under local rule by deeming a *pro se* litigant’s failure to
9 oppose as consent to granting the motion); see United States v. Warren, 601 F.2d 471,
10 474 (9th Cir. 1979). Even though the court has an obligation to liberally construe their
11 pleadings, “pro se litigants are bound by the rules of procedure.” Ghazali, 46 F.3d at
12 54.

13 Here, Plaintiffs have not filed an opposition and failure to file an opposition
14 may constitute a consent to the granting of the motion. See Civ. Local R. 7.1.f.3.c.
15 Therefore, because the first amended complaint may be subject to dismissal and
16 Plaintiffs are proceeding *pro se*, the Court grants Plaintiffs another opportunity to file
17 an opposition or statement of non-opposition. Plaintiffs shall file an opposition or
18 statement of non-opposition on or before **October 6, 2017**. In the event Plaintiffs file
19 an opposition, Defendants shall file a reply on or before **October 13, 2017**.

20 IT IS SO ORDERED.

21 DATED: September 19, 2017

22 
23 HON. GONZALO P. CURIEL
24 United States District Judge

25 cc:
26 Christina Wise
27 3525 Del Mar Heights Road, Suite 31
28 San Diego, CA 92130-2227

28 ²The deadline to file an opposition passed on September 1, 2017. (See Dkt. No. 86.)