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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 ROBERT FREDEKING and CRYSTAL
12 ARANDA,

13 Plaintiffs,

14 v.

15 AURORA BEHAVIORAL HEALTH
16 CENTER, INC,

17 Defendant.

Case No.: 3:17-CV-01807-CAB-(KSC)

ORDER ON MOTION TO DISMISS
[Doc. No. 4]

18 On September 20, 2017, Defendant Aurora Behavioral Health Center, Inc. filed a
19 motion to dismiss [Doc. No. 4]. More than a month has passed, and Plaintiffs have not
20 filed an opposition.

21 Civil Local Rule 7.1.e.2 requires a party opposing a motion file an opposition or
22 statement of non-opposition within fourteen calendar days of the noticed hearing. CivLR
23 7.1.e.2. Failure to comply with the local rules setting a deadline to oppose a motion “may
24 constitute a consent to the granting of a motion.” CivLR 7.1.f.3.c. District courts have
25 broad discretion to enact and apply local rules, including dismissal of a case for failure to
26 comply with the local rules. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (affirming
27 grant of an unopposed motion to dismiss under local rule by deeming a *pro se* litigant’s
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1 failure to oppose as consent to granting the motion). That Plaintiffs are proceeding *pro se*
2 in this action does not excuse their failure to follow the rules of procedure that govern other
3 litigants. *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987) (“*Pro se* litigants must follow
4 the same rules of procedure that govern other litigants.”).

5 Here, Defendant filed proof of service of the motion, signaling that Plaintiffs were
6 served at the address provided on the face of the complaint. [Doc. No. 5.] The motion had
7 a noticed hearing date of October 25, 2017. Therefore, Plaintiffs’ opposition to the motion
8 was due on October 11, 2017. As of the date of this order, Plaintiffs have not filed a
9 response.

10 Additionally, the Court has reviewed the complaint and notes that it fails to identify
11 any claims asserted against Defendant and does not set forth any factual allegations. [Doc.
12 No. 1.] *See e.g., Bielma v. Bostic*, Case No.: 15cv1606-MMA (BLM), 2016 WL 29624,
13 *8 (S.D. Cal. Jan. 4, 2016) (quoting *McHenry v. Renne*, 84 F.3d 1172, 1180 (9th Cir. 1996))
14 (A complaint that lacks “simplicity, conciseness and clarity as to whom plaintiffs are suing
15 for what wrongs, fails to perform the essential elements of a complaint.”). Furthermore,
16 the complaint purports to be a class action and a plaintiff appearing *pro se* cannot act as
17 counsel for a class.

18 In light of the foregoing, it is hereby **ORDERED** that Defendant’s motion to dismiss
19 [Doc. No. 4] is **GRANTED**. It is further **ORDERED** that the complaint is **DISMISSED**
20 **WITHOUT PREJUDICE**.

21 It is **SO ORDERED**.

22 Dated: October 27, 2017



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24 Hon. Cathy Ann Bencivengo
25 United States District Judge
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