UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

HERBERT HUBER,

Plaintiff,

v.

FISHER, et al.,

Defendants.

No. 2:25-cv-1311-DC-CKD (PS)

ORDER

Plaintiff proceeds without counsel and seeks relief for an alleged violation of his federal civil rights based on the seizure of his vehicle. Plaintiff proceeds on the first amended complaint, which the undersigned found was appropriate for service on defendant Fisher. (ECF Nos. 4, 8.)

On January 2, 2026, defendant Fisher filed a motion to dismiss under Rule 12(b) of the Federal Rules of Civil Procedure asserting plaintiff's claims are time-barred. (ECF No. 14.) Plaintiff did not file a timely opposition to the motion to dismiss.

The court will provide plaintiff a further opportunity to respond to the pending motion to dismiss within 14 days after service of this order. However, plaintiff is cautioned that any further failure to respond will be construed as non-opposition to the granting of the motion and may also constitute grounds for dismissal of this case under Rule 41(b) of the Federal Rules of Civil Procedure.

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Local Rule 230(c) states "[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...." Accordingly, the hearing set for February 18, 2026, is vacated.

For the reasons set forth above, IT IS ORDERED as follows:

1. The hearing on defendant's motion to dismiss set for February 18, 2026 is VACATED.

2. Plaintiff shall file a written opposition (or a statement of non-opposition) to the motion to dismiss within 14 days after service of this order. Failure to do so will be deemed a statement of non-opposition and consent to the granting of the motion and may constitute an additional ground for the imposition of appropriate sanctions, including a recommendation that plaintiff's case be involuntarily dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b).

3. Defendant may file a written reply to any opposition filed by plaintiff within 10 days of plaintiff's filing. The court will take this matter under submission upon conclusion of this briefing schedule.

Dated: January 30, 2026

CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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