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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

SHAUN KANE,

Plaintiff,

v.

RICHARD PIERCE, et al.,

Defendants.

CASE NO. 1:06-cv-01564-OWW-GSA PC

ORDER STRIKING PLAINTIFF’S  
PROCEDURALLY DEFICIENT MOTION  
FOR SUMMARY JUDGMENT

(Docs. 111, 114, and 115)

Plaintiff Shaun Kane is a federal prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.<sup>1</sup> On January 11, 2010, Plaintiff filed a timely motion for summary judgment, which consists only of a narrative and documentary evidence. (Doc. 111.) Defendants seek, ex parte, an order striking the motion on the ground that it is procedurally deficient. (Docs. 114, 115.)

Local Rule 260(a) requires that “[e]ach motion for summary judgment or summary adjudication shall be accompanied by a ‘Statement of Undisputed Facts’ that shall enumerate discretely each of the specific material facts relied upon in support of the motion and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission or other document relied upon to establish that fact.” Plaintiff is required to include a statement of facts which separately sets forth each fact relied upon and, for each fact, cites to the evidence in support of the fact. It is not the duty of the Court or Defendants to wade through Plaintiff’s arguments and

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<sup>1</sup> Plaintiff’s claims arise from conditions of confinement at the Fresno County Jail.

1 exhibits, and determine which specific facts are being offered to support Plaintiff's motion. Further,  
2 arguments or contentions set forth in a brief do not constitute evidence. See Coverdell v. Dep't of  
3 Soc. & Health Servs., 834 F.2d 758, 762 (9th Cir. 1987) (recitation of unsworn facts not evidence).

4 Plaintiff's motion for summary judgment, filed January 11, 2010, is procedurally deficient  
5 and is HEREBY ORDERED STRICKEN from the record on that ground.<sup>2</sup>

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7 IT IS SO ORDERED.

8 **Dated: February 5, 2010**

**/s/ Oliver W. Wanger**  
**UNITED STATES DISTRICT JUDGE**

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<sup>2</sup> The motion deadline is set for June 28, 2010, leaving all parties adequate time to file motions for summary judgment.