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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIE LEE CARPENTER,

 Plaintiff,

 vs.

W.J SULLIVAN, et al.,

 Defendants.

CASE NO. 1:07-cv-00114-AWI-GBC

ORDER PERMITTING PLAINTIFF
OPPORTUNITY TO WITHDRAW OPPOSITION
AND FILE AMENDED OPPOSITION IN LIGHT
OF SEPARATELY-ISSUED SUMMARY
JUDGMENT NOTICE

(Doc. 147; Doc. 187)

_____ / TWENTY-ONE DAY DEADLINE

I. Procedural History and *Woods v. Carey*

Plaintiff Willie Lee Carpenter (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On December 10, 2008, the Court issued a second informational order, advising Plaintiff that Defendants may file a motion for summary judgment and how Plaintiff must oppose the motion in order to avoid dismissal, pursuant to *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998). Doc. 23-1. On October 12, 2011, Defendants filed a motion for summary judgment. Doc. 147. On February 21, 2012, Plaintiff filed an opposition to the motion for summary judgment. Doc. 179. On February 23, 2012, Defendants filed a Reply to Plaintiff’s opposition. Doc. 180. On April 13, 2012, Plaintiff filed a notice of erratum regarding Plaintiff’s statement of disputed facts. Doc. 181. On July 20, 2012, Defendants file a notice pursuant to *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998). Doc. 187.

1 On July 6, 2012, the Ninth Circuit found that the notice and warning of requirements for
2 opposing a defendant's motion for summary judgment should be issued contemporaneously when a
3 defendant files a motion for summary judgment, as opposed to a year or more in advance. *Woods v.*
4 *Carey*, --- F.3d ---, 2012 WL 2626912, at * 4 (9th Cir. Jul. 6, 2012). In order to address the time delay
5 between providing notice and the filing of Defendants' motion, Defendants filed a notice to Plaintiff,
6 in accordance with *Woods*.

7 **II. Plaintiff has Option to (1) Stand on Existing Opposition to Motion for Summary**
8 **Judgment or (2) File Amended Opposition Per Amended Second Informational Order**

9 In light of the separately-issued notice pursuant to *Woods*, the Court will provide Plaintiff with
10 two options upon receipt of this order. Plaintiff may either: 1) stand on his previously-filed opposition;
11 or 2) withdraw the existing opposition and file an amended opposition.

12 Accordingly, it is HEREBY ORDERED that:

- 13 1. Within **twenty-one (21) days** from the date of service of this order, Plaintiff may elect
14 to:
 - 15 a. Stand on his existing opposition already submitted to the Court; or
 - 16 b. Withdraw his opposition and file an amended opposition;
- 17 2. If Plaintiff does not elect to file an amended opposition in response to this order within
18 **twenty-one (21) days**, the Court will consider his existing opposition in resolving
19 Defendants' motion for summary judgment;
- 20 3. If Plaintiff elects to file an amended opposition, the Court will not consider Defendants'
21 existing reply; and
- 22 4. Defendants may file an amended reply pursuant to Local Rule 230(1).

23
24 IT IS SO ORDERED.

25 Dated: August 3, 2012

26 
27 UNITED STATES MAGISTRATE JUDGE
28