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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RAYMOND WRIGHT,

CASE NO. 1:07-cv-00462-AWI-BAM PC

Plaintiff,

ORDER GRANTING PLAINTIFF THIRTY
DAYS IN WHICH TO FILE OPPOSITION TO
MOTION FOR SUMMARY JUDGMENT

v.

SCOTT KEBNAN, et al.,

(ECF No. 111)

Defendants.

Plaintiff Raymond Wright (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on the first amended complaint, filed March 27, 2008, against Defendants Lefler, Figueroa, Gonzalez, Hernandez and Rivera for interference with Plaintiff’s right of access to the courts; Defendants Lefler, Gonzalez, Rivera, Desbit, Lima, Peterson, Pearce, Baires, Pennington, Grannis, and Kernan for retaliation; and Defendants Lefler, Orozco and Miller for violations of the Equal Protection Clause. After receiving an extension of time, Defendants filed a motion for summary judgment on March 7, 2012. (ECF No. 111.) Plaintiff filed an opposition on April 9, 2012, and Defendants filed a reply on April 16, 2012. (ECF Nos. 114,116.)

Plaintiff opposes the motion for summary judgment on the ground that, pursuant to the mail box rule, it was not filed until March 8, 2012, the date that it was placed in the mail. Therefore, Plaintiff argues that the Court lacks jurisdiction to consider Defendants’ motion for summary judgment. (Opp. 1, ECF No. 114.) The mailbox rule applies to conventional filings of the parties. In this instance, Defendants filed the motion for summary judgment electronically. According to the

1 Local Rules, all attorneys are required to file documents using CM/ECF and the date of filing is the
2 date the document is filed in CM/ECF. Local Rules 133, 134. Defendants' motion was timely filed.
3 To the extent that the documents were served on Plaintiff the following day, the Court finds that
4 there is no prejudice to Plaintiff by the failure to serve the documents until one day late. The Court
5 shall consider Defendants' motion for summary judgment.

6 Plaintiff only opposed the motion for summary judgment based upon timeliness. Since the
7 Court finds that Defendants' motion for summary judgment was timely filed, Plaintiff shall be
8 granted thirty days in which to file an opposition addressing the merits of the motion for summary
9 judgments.

10 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff shall be granted thirty days
11 from the date of service of this order in which to file an opposition to Defendants' motion for
12 summary judgment.

13
14 IT IS SO ORDERED.

15 **Dated: October 22, 2012**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE