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**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

STANLEY BRADFORD CLARKE,)
)
 Plaintiff,)
)
 v.)
)
 SANDRA UPTON; AMPARO)
 WILLIAMS; DEPARTMENT OF)
 SOCIAL SERVICES; and COUNTY OF)
 MADERA)
)
 Defendants.)
 _____)

1:07-CV-0888 AWI-SMS
ORDER ON PLAINTIFF'S
REQUEST FOR LATE FILING
OF OPPOSITION TO
SUMMARY JUDGMENT

(Doc No. 145)

Now pending before the Court is Defendants' motion for summary judgment. The matter was scheduled to be heard on August 29, 2011. On September 14, 2011, due to the retirement of the Honorable Oliver W. Wanger, all previously set hearing dates in this case occurring within 60 days were vacated. See Court's Docket, Doc. No. 139. On October 19, 2011, this case was reassigned to the undersigned. See id. at Doc. No. 142. On October 20, 2011, the Court set a December 5, 2011 hearing on Defendants' motion for summary judgment. See id. at Doc. No. 143. Plaintiff's opposition to the motion or notice of non-opposition was due on November 21, 2011. See Local Rule 78-230(c). On December 1, 2011, the Court vacated the December 5, 2011 hearing date and took Defendants' motion for summary judgment under submission. See Court's Docket, Doc. No. 144.

1 The Court's Docket indicates that Documents 142 and 143 were served on Plaintiff by
2 mail. However, Plaintiff called the Court on December 8, 2011, after receiving Document 144,
3 and stated he had not received Documents 142 and 143. Plaintiff was therefore unaware the case
4 had been reassigned and the summary judgment hearing was set for December 5, 2011. On
5 December 9, 2011, Plaintiff filed a request for relief to allow him time to file an opposition to
6 summary judgment; time to copy, collate, and serve the opposition; and a briefing schedule for
7 all remaining deadlines.

8 The Court finds that because Plaintiff purports to have had no notice of the December 5,
9 2011 hearing date, he is entitled to late filing of an opposition. Plaintiff indicates he has already
10 prepared the opposition and was simply waiting to file it until the hearing on the motion was
11 scheduled. Defendants' motion for summary judgment is now under submission, and the Court
12 believes it has sufficient time to review the late filed materials without undue prejudice to
13 Plaintiff or Defendants.

14 Accordingly, the court ORDERS that:

- 15 1. Plaintiff's request to allow late filing is GRANTED.
- 16 2. Plaintiff shall file any opposition to Defendants' motion for summary judgment no
17 later than 4 p.m. on December 27, 2011.
- 18 3. Defendants shall file any reply no later than 4 p.m. on January 3, 2011.
- 19 4. The Court will consider Plaintiff's opposition and Defendants' reply along with
20 the other moving papers under submission and will thereafter issue its decision.
- 21 5. Further dates if needed shall be set upon the court's ruling on the motion for
22 summary judgment.

23 IT IS SO ORDERED.

24 Dated: December 13, 2011


25 _____
26 CHIEF UNITED STATES DISTRICT JUDGE