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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

ALFRED C. LOMBARDELLI,

Plaintiff,

v.

K. HALSEY, et al.,

Defendants.

Case No. 1:08-cv-00658-AWI-DLB PC

**ORDER GRANTING PLAINTIFF LEAVE  
TO FILE AMENDED OPPOSITION OR  
PROCEED WITH CURRENT  
OPPOSITION (ECF No. 96)**

**RESPONSE DUE WITHIN THIRTY DAYS**

Plaintiff Alfred C. Lombardelli (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendants E. Ortiz, S. Smyth, I. Sanchez, K. Halsey, K. Carter, and R. Vogel for violations of the First and Eighth Amendment. Pending before the Court is Defendants’ motion, filed July 31, 2012, to grant Plaintiff additional time to supplement his opposition to Defendants’ motion for summary judgment. ECF No. 96. Defendants filed a motion for summary judgment on January 13, 2012. ECF No. 76.

In light of the recent decision in *Woods v. Carey*, Nos. 09-15548, 09-16113, 2012 WL 2626912, at \*5 (9th Cir. Jul. 6, 2012), Plaintiff must be provided with “fair notice” of the requirements for opposing a motion for summary judgment at the time the motion is brought.<sup>1</sup>

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<sup>1</sup> Plaintiff had received notice of the requirements to oppose a motion for summary judgment on January 10, 2012, three days prior to Defendants’ motion being filed. Additionally, Plaintiff’s opposition is in compliance with Local Rule 260(b) and Rule 56(c) of the Federal Rules of Civil Procedure. See ECF Nos. 85, 86. Nonetheless, the Court will grant Plaintiff leave to amend his opposition.

1 Defendants provide notice pursuant to *Rand v. Rowland*, 154 F.3d 952, 962-63 (9th Cir. 1998) (en  
2 banc) in their pending motion. Defs.' Mot. 2:2-4:4, ECF No. 96. The Court will not consider  
3 multiple oppositions, however, and Plaintiff has two options upon receipt of this order. Plaintiff may  
4 either (1) stand on his previously-filed opposition or (2) withdraw it and file an amended opposition.  
5 If Plaintiff files an amended opposition, the pending Findings and Recommendation will be  
6 withdrawn.

7 Accordingly, it is HEREBY ORDERED that:

- 8 1. Plaintiff may, within thirty (30) days from the date of service of this order, withdraw  
9 his opposition and file an amended opposition;
- 10 2. If Plaintiff does not file an amended opposition in response to this order, his existing  
11 opposition will be considered in resolving Defendants' motions for summary judgment; and
- 12 3. If Plaintiff elects to file an amended opposition, Defendants' existing reply will not be  
13 considered and they may file an amended reply within fourteen (14) days from the date of service of  
14 Plaintiff's amended opposition.

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17 IT IS SO ORDERED.

18 Dated: August 2, 2012

/s/ Dennis L. Beck  
19 UNITED STATES MAGISTRATE JUDGE