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

LATWAHN McELROY  
CDCR #P-71922,  
  
Plaintiff,  
  
vs.  
  
ROY COX, et al.,  
  
Defendants.

Civil No. 1:08cv1221 JTM (MDD)

**ORDER DENYING DEFENDANTS’  
REQUEST FOR COURT ORDER**  
  
**[ECF No. 60]**

On March 25, 2011, Defendants filed a “Request for Notice to Plaintiff of Requirements for Opposing a Motion for Summary Judgment” [ECF No. 60]. In this request, Defendants indicate that they “have prepared their motion for summary judgment and are ready to file it.” See Defs.’ Req. at 1. Defendants go on to note that the court has not issued “a notice to Plaintiff of the requirements for opposing a motion for summary judgment.” *Id.*


The court is fully aware of its obligations with respect to the Ninth Circuit Court of Appeals’ rulings in *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998) and *Klinge v. Eikenberry*, 849 F.2d 409 (9th Cir. 1988). However, Defendants have not filed a Motion for Summary Judgment. Moreover, Defendants were instructed in the court’s February 2, 2009 Order to

1 “contact the law clerk of the assigned judge to obtain a hearing date and time” prior to filing any  
2 motion. *See* Feb. 2, 2009 Order at 4.

3 When Defendants contact the court and obtain a hearing date, the court will issue the  
4 appropriate Order along with a briefing schedule. Until that time, Defendants’ request is  
5 premature and therefore, it is DENIED.

6 **IT IS SO ORDERED.**

7 DATED: March 30, 2011

8   
9 Hon. Jeffrey T. Miller  
United States District Judge

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