

## SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, MOTION TO DISMISS, YOUR CASE WILL BE OVER AND THERE WILL BE NO TRIAL. Rule 56 tells you what you must do in order to oppose the motion.

a. Generally, a Motion for Summary Judgment must be granted when the
Court finds that, through the Motion for Summary Judgment, Defendants have demonstrated
there is no real dispute about any fact that would affect the outcome of your case, and the
Court is able to decide that the Defendants are entitled to judgment as a matter of law.

b. When Defendants support a Motion for Summary Judgment with proper
declarations (or other sworn testimony) or other evidence, you cannot merely rely on what
your Complaint says to defend your version of the issues and facts. Instead, you must show
that there is a genuine issue of material fact. In order to do this, you must also set out
specific facts in declarations, depositions, answers to interrogatories, or authenticated
documents, as provided in Rule 56(e), that contradict the facts shown in the Defendants'
declarations and documents.

c. The declarations or other sworn testimony setting out your specific
facts must be made on personal knowledge, must set forth such facts as would be admissible
as evidence, and must affirmatively show that the affiant is competent to testify regarding
the matters in the declaration or other sworn testimony. *See* Local Rules of the United
States District Court for the Eastern District of California ("L.R.") 142.

d. If the Court determines that any of the declarations or other sworn
testimony are made in bad faith, the Court may order the party employing the bad faith to
pay the other party for costs associated with controverting that testimony, including the other
party's attorney's fees.

If you do not submit your own evidence in opposition to the Motion, the
 moving party's evidence might be taken as truth and final Judgment might be entered against
 you without a trial. IF THAT OCCURS, YOUR CASE WILL BE OVER AND THERE
 WILL BE NO TRIAL.

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1 3. In addition, Rule 260(b), Local Rules of the United States District Court for 2 the Eastern District of California, requires that you include, as a document separate from 3 your Response to the Motion for Summary Judgment, a statement of the specific facts on which you are relying in opposing the Summary Judgment motion. In this statement of 4 5 facts, you cannot provide a general description of the facts. Instead, you must list each 6 specific fact on which you rely in a separately numbered paragraph, and must explain where 7 in the record that fact can be found. For example, if one of your facts is that a certain prison 8 official did something, you must explain where that fact can be found – in a certain 9 declaration, affidavit, deposition, answer to interrogatories, authenticated document, etc. 10 IT IS FURTHER ORDERED that: 11 4. YOU HAVE THIRTY-THREE (33) DAYS FROM APRIL 9, 2010, TO 12 **RESPOND TO THE MOTION FOR SUMMARY JUDGMENT OR, IN THE** 13 ALTERNATIVE, MOTION TO DISMISS. If you do not respond to the Motion for 14 Summary Judgment or, in the Alternative, Motion to Dismiss, your failure to respond can 15 be viewed as you agreeing to the Court granting the Motion. See L.R. 230(1). IF THAT 16 **OCCURS, THOSE CLAIMS ADDRESSED IN THE MOTION FOR SUMMARY** 17 JUDGMENT OR, IN THE ALTERNATIVE, MOTION TO DISMISS WILL BE 18 DISMISSED AND THERE WILL BE NO TRIAL ON THOSE CLAIMS. 19 DATED this 7th day of April, 2010. 20 enson 21 United States District Judge 22 23 24 25 26 27 28 - 3 -