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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT EARL SAMUELS,

Plaintiff,

v.

G. ADAME, et al.,

Defendants.

Case No. 1:09-cv-01320-AWI-DLB PC

**ORDER GRANTING PLAINTIFF LEAVE
TO FILE AMENDED OPPOSITION OR
PROCEED WITH CURRENT
OPPOSITIONS (ECF No. 59)**

RESPONSE DUE WITHIN THIRTY DAYS

Plaintiff Robert Earl Samuels (“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 G. Adame, P. Gentry, B. Medrano, R. Nicholas, F. Rivera, E. Sailer, and D. Snyder for excessive force and against Defendant C. Farnsworth for deliberate indifference to a serious medical need in violation of the Eighth Amendment. Pending before the Court is Defendants’ motion, filed July 25, 2012, to grant Plaintiff additional time to supplement his opposition to Defendants’ motions for summary judgment. ECF No. 59. Defendants filed motions for summary judgment on February 6, 2012 and February 27, 2012. ECF Nos. 44, 50.

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, and the notice given in this case over a year prior does not suffice. Defendants provide notice pursuant to

1 *Rand v. Rowland*, 154 F.3d 952, 962-63 (9th Cir. 1998) (en banc) in their pending motion. Defs.’
2 Mot. 2:4-4:6, ECF No. 59. Plaintiff had filed oppositions to Defendants’ motions for summary
3 judgment without benefit of the *Rand* warning as required by *Woods*. Pl.’s Opp’ns, ECF Nos. 49,
4 53. The Court will not consider supplemental oppositions, however, and Plaintiff has two options
5 upon receipt of this order. Plaintiff may either (1) stand on his previously-filed oppositions or (2)
6 withdraw them and file an amended opposition.

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 oppositions and file an amended opposition;

10 2. If Plaintiff does not file an amended opposition in response to this order, his existing
11 oppositions 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: July 31, 2012

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE