

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MICHAEL FOSTER,

Plaintiff,

vs.

CAPTAIN F. VASQUEZ, *et al.*,

Defendants.

Case No. 1:10-cv-01830-RRB

**NOTICE REGARDING MOTION FOR  
SUMMARY JUDGMENT AT DOCKET 58**

Plaintiff is proceeding *pro se* in this civil action. At **Docket 58** Defendants filed a motion for summary judgment<sup>1</sup> and served it on **November 3, 2014**. The Court hereby notifies Plaintiff of the following rights and requirements for opposing the motion:<sup>2</sup>

1. Unless otherwise ordered, all motions and oppositions must be briefed pursuant to Local Rule 230(l).

2. Plaintiff is required to file an opposition or a statement of non-opposition to Defendants' motion for summary judgment.<sup>3</sup> The opposition or statement of non-opposition must be filed not more than **twenty-one (21) days** after the date of service of the motion.<sup>4</sup>

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<sup>1</sup> Fed. R. Civ. P. 56.

<sup>2</sup> See *Woods v. Carey*, 684 F.3d 934 (9th Cir. 2012); *Wyatt v. Terhune*, 315 F.3d 1108 (9th Cir. 2003).

<sup>3</sup> Local Rule 230(l).

<sup>4</sup> *Id.*

3. In responding to Defendants' motion for summary judgment, Plaintiff may not simply rely on allegations in the complaint.

(a) Plaintiff must oppose the motion by setting forth specific facts in declaration(s) and/or by submitting other evidence regarding the issue(s) raised in the motion,<sup>5</sup> e.g., all or part of deposition transcripts, answers to interrogatories, admissions, or any other properly authenticated document.

(b) Defendants have served and filed a Statement of Undisputed Facts. Plaintiff must either: (1) admit the facts are undisputed; or (2) deny the specific fact and cite the evidence relied upon to support the denial.<sup>6</sup>

If Plaintiff does not submit evidence in opposition to the motion, the Court may accept Defendants' facts as true, and may, but not need not, conclude that Plaintiff is not entitled to the relief requested in the complaint, and dismiss the complaint.<sup>7</sup>

4. The Court will consider a request to postpone consideration of Defendants' motion if Plaintiff serves and files a declaration affirmatively showing:

(a) the specific fact(s) that Plaintiff believes exist; and

(b) specifically why Plaintiff cannot present the fact(s) in opposition to the motion.

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<sup>5</sup> See Fed. R. Civ. P. 43(c).

<sup>6</sup> See Local Rule 260(b).

<sup>7</sup> See Local Rule 230(l).

5. Unsigned declarations will be disregarded, and declarations not signed under penalty of perjury have no evidentiary value.

6. If the Court grants Defendants' motion, whether opposed or unopposed, judgment will be entered in favor of Defendant without a trial and the case closed.

7. The failure to comply with this order, the Federal Rules of Civil Procedure, or the Local Rules of the Eastern District of California may result in the imposition of sanctions, including but not limited to, dismissal of the action or entry of default.

**IT IS SO ORDERED** this 4th day of November, 2014.

S/ RALPH R. BEISTLINE  
UNITED STATES DISTRICT JUDGE