

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LAWRENCE PEPE CARDOZA,

Plaintiff,

vs.

M. TANN, *et al.*,

Defendants.

Case No. 1:11-cv-01386-RRB

ORDER RE: MOTIONS FOR
SUMMARY JUDGMENT
[DOCKETS 108, 109]

Plaintiff is proceeding *pro se* in this civil action. At Dockets 108 and 109 Defendants separately filed and served two motions for summary judgment on July 30 and August 3, 2015, respectively.¹ The Court hereby notifies Plaintiff of the following rights and requirements for opposing the motions:²

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

2. Plaintiff is required to file an opposition or a statement of non-opposition to Defendants' motion for summary judgment.³ The requirements of the local rules

¹ Docket 108 (Motion of Defendants F. Carreon, P. Paz, and R. Pinkham); Docket 109 (Motion of Defendants T. Byers, M. Codd, R. Cummings, R. Hopkins, T. Mackey, S. Martinez, and J. Oldham).

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

³ Local Rule 230(I).

notwithstanding,⁴ the Court on its own volition hereby extends the time within which Plaintiff must file his opposition to the motions through and including **Friday, September 11, 2015**.

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

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

(b) Defendants have served and filed Statements 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.⁶

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.⁷

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

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

⁴ *Id.*

⁵ See Fed. R. Civ. P. 43(c).

⁶ Fed. R. Civ. P. 56(c); see Local Rule 260(b).

⁷ Fed. R. Civ. P. 56(e); see Local Rule 230(l).

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

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

6. If the Court grant's Defendants' motions, whether opposed or unopposed, judgment will be entered in favor of Defendants 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 10th day of August, 2015.

S/ RALPH R. BEISTLINE
UNITED STATES DISTRICT JUDGE