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

WILSON GORRELL,)	Case No.: 1:12-cv-0554 - JLT
)	
Plaintiff,)	ORDER VACATING THE HEARING DATE OF
)	SEPTEMBER 26, 2013 AND TAKING
v.)	DEFENDANTS’ MOTION FOR SUMMARY
)	JUDGMENT UNDER SUBMISSION
THOMAS SNEATH, et al.,)	
)	
Defendants.)	
)	

Defendants Thomas Sneath, Hasmukh Shah, and National Toxicology Laboratories (“Defendants”) filed a motion for summary judgment on August 22, 2013. (Doc. 79). At that time, Defendants served Plaintiff Wilson Gorrell, a federal prisoner proceeding *pro se* in this action, with a notice pursuant to *Klinge v. Eikenberry* (9th Cir. 1988) 849 F.2d 409 and *Rand v. Rowland* (9th Cir. 1988) 154 F.3d 952), which set forth the requirements for opposing a motion for summary judgment (Doc. 79-1).

Any opposition by Plaintiff to the motion for summary judgment was to be filed no later than September 12, 2013. Despite service of the notice, Plaintiff has not filed an opposition Defendants’ motion for summary judgment.¹ Pursuant to Local Rule 230(c), “No party will be entitled to be heard

¹ In an abundance of caution, the Court has waited more than a week after the deadline for Plaintiff to file an opposition to the motion prior to taking the matter under submission. Notably, recently, the Court has received several motions from Plaintiff indicating a mailing date *after* the opposition was due. (*See* Docs. 104, 106 and 107).

1 in opposition to a motion at oral arguments if no opposition to the motion has not been timely filed by
2 that party.” Accordingly, Plaintiff would not be entitled to be heard at any hearing on the motion for
3 summary judgment. In addition, under Local Rule 230(g), “[a] motion may be submitted upon the
4 record and briefs on file . . . if the Court so orders.” The Court has reviewed the motion and its
5 supporting documents, and finds the matter suitable for decision without oral argument pursuant to
6 Local Rule 230(g).

7 Accordingly, **IT IS HEREBY ORDERED**: Defendants’ motion for summary judgment is
8 taken under submission, and the hearing date of September 26, 2013 is **VACATED**.

9
10 IT IS SO ORDERED.

11 Dated: September 23, 2013

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE