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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

<p>SUSAN MAE POLK,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>LATTIMORE, <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. 1:12-cv-01156-DAD-BAM (PC)</p> <p><b>ORDER CLARIFYING DEADLINE TO FILE PLAINTIFF’S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT</b></p> <p>(ECF No. 147)</p> <p><b>Opposition Due: August 16, 2021</b></p>
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Plaintiff Susan Mae Polk (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This action proceeds on Plaintiff’s fifth amended complaint against Defendant Baron for retaliation in violation of the First Amendment and deliberate indifference in violation of the Eighth Amendment.

On July 23, 2021, Defendant Baron filed a motion for summary judgment for failure to exhaust administrative remedies. (ECF No. 147.) In that motion, Defendant incorrectly states that Plaintiff’s written opposition to the summary judgment motion “must be filed not more than fourteen days after the date of service of the motion.” (*Id.* at 2.)

By the instant order, the Court clarifies that pursuant to Local Rule 230(l), Plaintiff’s opposition to Defendant’s motion for summary judgment shall be served and filed “**not more than twenty-one (21) days after the date of service of the motion.**” Local Rule 230(l)

1 (emphasis added). In addition, pursuant to Federal Rule of Civil Procedure 6(d), Plaintiff is  
2 allowed an additional three (3) days following service made by mail. Finally, pursuant to the  
3 prison mailbox rule, a pleading filed by a *pro se* prisoner is deemed to be filed as of the date the  
4 prisoner delivered it to the prison authorities for mailing to the court clerk. *See Houston v. Lack*,  
5 487 U.S. 266, 270 (1988); *Douglas v. Noelle*, 567 F.3d 1103, 1108–09 (9th Cir. 2009) (mailbox  
6 rule articulated in *Houston* applies to civil rights actions).

7 Accordingly, IT IS HEREBY ORDERED that Plaintiff's opposition to Defendant's  
8 motion for summary judgment is due on or before **August 16, 2021**. **Plaintiff is further warned**  
9 **that failure to file an opposition in compliance with the Court's order will result in dismissal**  
10 **of this action, with prejudice, for failure to prosecute.**

11 IT IS SO ORDERED.

12  
13 Dated: August 2, 2021

/s/ Barbara A. McAuliffe  
14 UNITED STATES MAGISTRATE JUDGE