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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ARTHUR T. BUSSIERE,  
  
  Plaintiff,  
  
  v.  
  
Dr, W. KOKOR, et al.,  
  
  Defendants.

**Case No. 1:13-cv-1565-AWI-SKO (PC)**  
  
**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DENYING  
DEFENDANTS’ MOTION FOR SUMMARY  
JUDGMENT, WITHOUT PREJUDICE, ON  
PROCEDURAL GROUNDS**  
  
**(Doc. 62)**

Plaintiff, Arthur T. Bussiere, a state prisoner proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 on September 27, 2013. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. This action is proceeding on Plaintiff’s First Amended Complaint (Doc. 12) against Defendants W. Kokor, M.D., N. Hashemi, M.D., and A. Tiggs-Brown, P.A., for deliberate indifference to Plaintiff’s medical needs in violation of the Eight Amendment. (*See* Doc. 14.)

On February 16, 2016, Defendants filed a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56. (Doc. 51.) However, they failed to concurrently serve Plaintiff with the requisite notice of the requirements for opposing/responding to their motion pursuant to *Woods v. Carey*, 684 F.3d 934, 939-41 (9th Cir. 2012); *Rand v. Rowland*, 154 F.3d 952, 960-61 (9th Cir. 1998). Plaintiff nevertheless filed an opposition. (*See* Docs. 55, 56, 57.) On June 6, 2016, without engaging in harmless error analysis, the Magistrate Judge issued a Findings and Recommendations to deny Defendants’ motion for summary judgment without prejudice to refile with the requisite notice to Plaintiff, which was served that same date and

1 gave fifteen days for the parties to file objections. (Doc. 62.) Despite lapse of more than the  
2 allowed time, no objections have been filed.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a  
4 *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the  
5 Findings and Recommendations to be supported by the record and by proper analysis.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The Findings and Recommendations, issued on June 6, 2016 (Doc. 62), is adopted in  
8 full;
- 9 2. Defendants' motion for summary judgment, filed on February 16, 2016 (Doc. 51), is  
10 denied without prejudice to refile, within fourteen (14) days of the date of service of  
11 this order, with proof of notice to Plaintiff of the requirements to adequately  
12 oppose/respond to a motion for summary judgment as required by *Woods v. Carey*,  
13 684 F.3d 934, 939-41 (9th Cir. 2012); *Rand v. Rowland*, 154 F.3d 952, 960-61 (9th  
14 Cir. 1998); and
- 15 3. Within twenty-one (21) days of the date of service of Defendants' refiled motion,  
16 Plaintiff shall either file a new opposition/response in accordance with Federal Rule of  
17 Civil Procedure 56, or a notice that he desires to stand on the opposition he previously  
18 filed (*see* Docs. 55, 56, 57).

19 IT IS SO ORDERED.

20 Dated: July 25, 2016

21   
22 SENIOR DISTRICT JUDGE