

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ISRAEL ESPINOZA,

Plaintiff,

V.

DIAZ,

Defendant.

Case No. 1:14-cv-00872-LJO-JLT (PC)

**SECOND INFORMATIONAL ORDER - NOTICE  
AND WARNING OF REQUIREMENTS FOR  
OPPOSING DEFENDANT'S MOTION TO  
DISMISS**

(Doc. 11)

## 21-DAY DEADLINE

Plaintiff is proceeding pro se in this civil action. Defendant filed a motion to dismiss on October 7, 2014. Pursuant to *Woods v. Carey*, Nos. 09-15548, 09-16113, 2012 WL 262 6912 (9th Cir. Jul. 6, 2012), *Wyatt v. Terhune*, 315 F.3d 1108 (9th Cir. 2003), *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998), and *Klingele v. Eikenberry*, 849 F.2d 409 (9th Cir. 1988), the Court hereby notifies Plaintiff of the following rights and requirements for opposing the motion:

1. Unless otherwise ordered, all motions to dismiss shall be briefed pursuant to Local Rule 230(1).

2. Plaintiff is required to file an opposition or a statement of non-opposition to Defendants' motion to dismiss. Local Rule 230(l). If Plaintiff fails to file an opposition or a statement of non-opposition to the motion, this action may be dismissed, with prejudice, for failure to prosecute. Local Rule requires the opposition, or statement of non-opposition be filed not more than 21 days after the date of service of the motion. *Id.* However, Plaintiff is granted

1 21 days from the service of this order to file his opposition or statement of non-opposition.

2 3. In responding to Defendants' motion to dismiss, Plaintiff may not simply rely on  
3 allegations in the operative complaint. Instead, Plaintiff must oppose the motion by setting forth  
4 specific facts in declaration(s) and/or by submitting other evidence. *See* Fed. R. Civ. P. 43(c);  
5 *Ritzza*, 837 F.2d at 369. If Plaintiff does not submit his own evidence in opposition, the Court may  
6 conclude that Plaintiff has no evidence to oppose the motion and the case will be dismissed in  
7 whole or in part.

8 4. Unsigned declarations will be stricken, and declarations not signed under penalty of  
9 perjury have no evidentiary value.

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

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14 IT IS SO ORDERED.

15 Dated: November 6, 2014

16 /s/ Jennifer L. Thurston  
17 UNITED STATES MAGISTRATE JUDGE

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