



1 Plaintiff with the required notice concurrent with the filing of the motion, this motion shall be denied  
2 without prejudice, subject to re-filing with the appropriate notice to Plaintiff. Wood v. Carey, 684 F.3d  
3 at 936, 938-941. If Defendant re-files the motion for summary judgment without the adequate Rand  
4 notice, the motion is subject to denial without leave to re-file.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. Defendant Barnes' motion for summary judgment is DENIED WITHOUT  
7 PREJUDICE;
- 8 2. Defendant shall file their motion for summary judgment within seven (7) days of the  
9 date of entry of this order and shall provide Plaintiff with the appropriate Rand notice;  
10 and
- 11 3. Plaintiff shall file his opposition to the motion for summary judgment within twenty  
12 one (21) days of the date of service of the motion.

13  
14 IT IS SO ORDERED.

15 Dated: October 13, 2016



16 UNITED STATES MAGISTRATE JUDGE