

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

JEFFREY P. PERROTTE,	)	Case No.: 1:15-cv-00026-LJO-SAB (PC)
	)	
Plaintiff,	)	
	)	ORDER DENYING DEFENDANTS’ MOTION
v.	)	FOR SUMMARY JUDGMENT, WITHOUT
	)	PREJUDICE, FOR FAILURE TO PROVIDE
STACEY JOHNSON, et al.,	)	<u>RAND</u> NOTICE
	)	
Defendants.	)	[ECF Nos. 81, 82]
	)	
	)	FOURTEEN DAY DEADLINE

Plaintiff Jeffrey P. Perrotte is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Defendants’ motion for summary judgment, filed May 5, 2017. (ECF No. 81.)

In Woods v. Carey, 684 F.3d 934, 939 (9th Cir. 2012), the Ninth Circuit held that a pro se prisoner plaintiff must be provided with “fair notice” of the requirements for opposing a motion for summary judgment at the time the motion is brought. Review of the current motion shows that Defendants did not provide Plaintiff with a Rand notice upon the filing of the motion for summary judgment. See Rand v. Rowland, 154 F.3d 952 (9th Cir. 1998). Since Defendants failed to provide Plaintiff with the required notice, this motion shall be dismissed without prejudice, subject to refiling with the appropriate notice to Plaintiff.

///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly, IT IS HEREBY ORDERED that:

1. Defendants' motion for summary judgment is DENIED WITHOUT PREJUDICE;
2. Defendants shall file their motion for summary judgment within fourteen (14) days of the date of entry of this order and shall provide Plaintiff with the appropriate Rand notice; and
3. Plaintiff shall file his opposition to the motion for summary judgment within twenty-one (21) days of the date of service of the motion.

IT IS SO ORDERED.

Dated: October 11, 2017



UNITED STATES MAGISTRATE JUDGE