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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

9 DELBERT J. SMITH,

10 Plaintiff,

11 v.

12 C. HERNANDEZ, et al.,

13 Defendants.

Case No.: 1:16-cv-01267-DAD-SAB (PC)

ORDER GRANTING DEFENDANTS'
MOTION TO STRIKE MOTION FOR
SUMMARY JUDGEMENT

(ECF No. 85)

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16 Plaintiff Delbert J. Smith is appearing pro se and in forma pauperis in this civil rights
17 action pursuant to 42 U.S.C. § 1983.

18 On October 30, 2018, Defendants Cramer and Zuniga filed a motion for summary
19 judgment pursuant to Federal Rule of Civil Procedure 56. (ECF No. 81.)

20 Currently before the Court is Defendants' motion to strike their motion for summary
21 judgment, filed on November 6, 2018. (ECF No. 85.) Defendants seek to strike their summary
22 judgment motion because of certain redaction errors. They have concurrently filed an amended
23 motion for summary judgment, (ECF No. 86), which was also served on Plaintiff on November
24 6, 2018.

25 Based on the foregoing, the Court HEREBY ORDERS that:

- 26 1. Defendants' motion to strike is granted;
- 27 2. Defendants' motion for summary judgment filed on October 30, 2018 is stricken
28 from the record; and

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3. Plaintiff shall file an opposition or statement of non-opposition to Defendants' amended motion for summary judgment within twenty-one (21) days of service. Local Rule 230(l); and

4. Plaintiff is warned that the failure to file an opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion, and may result in the imposition of sanctions. Id.

IT IS SO ORDERED.

Dated: November 7, 2018


UNITED STATES MAGISTRATE JUDGE