1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 JESSE D. ALLRED, Case No.: 1:16-cv-01571-LJO-SAB (PC) 12 Plaintiff, ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, WITHOUT 13 v. PREJUDICE. FOR FAILURE TO PROVIDE THE PROPER RAND NOTICE CALIFORNIA DEPARTMENT OF 14 CORRECTIONS AND REHABILITATION, [ECF No. 46] 15 et al., Defendants. 16 17 Plaintiff Jesse D. Allred is appearing pro se and in forma pauperis in this civil rights action 18 pursuant to 42 U.S.C. § 1983. 19 On August 6, 2018, Defendants filed a motion for summary judgment. (ECF No. 42.) 20 In Woods v. Carey, 684 F.3d 934, 939 (9th Cir. 2012), the Ninth Circuit held that a pro se 21 prisoner plaintiff must be provided with "fair notice" of the requirements for opposing a motion for 22 summary judgment at the time the motion is brought. Review of the current motion shows that 23 Defendants did not provide Plaintiff with the proper Rand notice. See Rand v. Rowland, 154 F.3d 952 24 (9th Cir. 1998). In particular, Defendants failed to advise Plaintiff of the contents of any applicable 25 Eastern District of California Local Rule requirements, i.e., Local Rule 260; Rand, 154 F.3d 961. 26 /// 27 28

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Accordingly, IT IS HEREBY ORDERED that:

- Defendants' motion for summary judgment (ECF No. 46) is DENIED WITHOUT PREJUDICE; and
- 2. Defendants are granted an extension of time, 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 <u>Rand</u> notice.

IT IS SO ORDERED.

Dated: **November 6, 2018**

UNITED STATES MAGISTRATE JUDGE