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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

8
9 JAMES W. MILLNER,

10 Plaintiff,

11 v.

12 DR. DILEO, et al.,

13 Defendants.

Case No.: 1:17-cv-00507-LJO-SAB (PC)

ORDER DENYING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT,
WITHOUT PREJUDICE, FOR FAILURE TO
PROVIDE
RAND NOTICE

[ECF No. 42]

FOURTEEN DAY DEADLINE

14
15 Plaintiff James W. Millner is appearing pro se in this civil rights action pursuant to 42
16 U.S.C. § 1983.

17 On August 6, 2018, Defendants filed a motion for summary judgment, on extension.
18 (ECF No. 42.) Defendants also delivered a courtesy copy of the motion to the Court.

19 In Woods v. Carey, 684 F.3d 934, 939 (9th Cir. 2012), the Ninth Circuit held that a pro se
20 prisoner plaintiff must be provided with “fair notice” of the requirements for opposing a motion
21 for summary judgment at the time the motion is brought. Review of the current motion shows
22 that Defendants did not provide Plaintiff with a Rand notice upon the filing of the motion for
23 summary judgment. See Rand v. Rowland, 154 F.3d 952 (9th Cir. 1998). Defendants have
24 failed to provide Plaintiff with the proper required Rand notice. In particular, Defendants failed
25 to file a separate form notice of *all* the Rand requirements independent of the summary judgment
26 motion or papers filed in support thereof. Rand, 154 F.3d at 960. In addition, Defendants failed
27 to advise Plaintiff of the contents of any applicable Eastern District of California Local Rule
28 requirements, *i.e.*, Local Rule 260. Id. at 961.

1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. Defendants' motion for summary judgment (ECF No. 42) is DENIED WITHOUT
3 PREJUDICE;
- 4 2. Defendants are granted an extension of time, shall file their motion for summary
5 judgment within **fourteen (14) days** of the date of entry of this order, and shall
6 provide Plaintiff with the appropriate Rand notice; and
- 7 3. Defendants are relieved of their obligation to provide any additional courtesy
8 copy to the Court of their summary judgment motion. Local Rule 130(b).

9
10 IT IS SO ORDERED.

11 Dated: August 8, 2018



UNITED STATES MAGISTRATE JUDGE