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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 LAWTIS DONALD RHODEN, ) Case No.: 1:18-cv-00101-LJO-SAB (PC)  
12 Plaintiff, )  
13 v. ) ORDER DENYING DEFENDANTS' MOTION  
14 DEPARTMENT OF STATE HOSPITALS, ) FOR SUMMARY JUDGMENT, WITHOUT  
15 et al., ) PREJUDICE, TO RE-FILING WITH PROPER  
16 Defendants. ) RAND NOTICE  
[ECF No. 63]

17 Plaintiff Lawtis Donald Rhoden is a civil detainee appearing pro se and in forma pauperis in  
18 this civil rights action pursuant to 42 U.S.C. § 1983.

19 On October 7, 2019, Defendants filed a motion for summary judgment.

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 Defendant Garcia’s motion shows  
23 that he did not provide Plaintiff with a Rand notice upon the filing of the motion for summary  
24 judgment. See Rand v. Rowland, 154 F.3d 952 (9th Cir. 1998). In particular, Defendants failed to  
25 advise Plaintiff of the contents of the applicable Eastern District of California Local Rule  
26 requirements, *i.e.*, Local Rule 260. Rand, at 961. Accordingly, the Court must deny the entire motion,  
27 without prejudice, because the Rand notice is required to be filed simultaneously with the motion. Id.  
28 at 960.

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Accordingly, IT IS HEREBY ORDERED that:

1. Defendants' motion for summary judgment (ECF No. 63) is DENIED WITHOUT PREJUDICE;
2. Defendants are granted an extension of time, shall file the motion for summary judgment within **seven (7) days** of the date of entry of this order, and shall provide Plaintiff with the appropriate Rand notice; and
3. After the time for Defendants to file a properly noticed motion for summary judgment, Plaintiff has thirty (30) days to file a response.

IT IS SO ORDERED.

Dated: **October 8, 2019**

  
UNITED STATES MAGISTRATE JUDGE