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

ALLEN HAMMLER,)	Case No.: 1:19-cv-00373-AWI-SAB (PC)
)	
Plaintiff,)	
)	FINDINGS AND RECOMMENDATION
v.)	RECOMMENDING PLAINTIFF’S MOTION FOR
)	SUMMARY JUDGMENT BE DENIED AS
CLARK, et.al.,)	PREMATURE AND PROCEDURALLY
)	DEFECTIVE
Defendants.)	
)	[ECF No. 49]
)	
)	
)	

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

This action proceeds against Defendants Gamboa, Peterson, Garza, Saucedo, Uhlik and Clark for violation of the First Amendment.

Currently pending before the Court is Plaintiff’s motion for summary judgment, filed September 20, 2019

As an initial matter, Plaintiff’s motion is premature, as discovery has not yet begun, Defendants have not yet filed an answer and the Court has yet to issue a discovery and scheduling order. Thus, Defendants have not been given the opportunity to discover any facts or information necessary in drafting an opposition. In addition, Plaintiff’s motion did not comply with Local Rule 260(a), which requires that “[e]ach motion for summary judgment or summary adjudication shall be

1 accompanied by a ‘Statement of Undisputed Facts’ that shall enumerate discretely each of the specific
2 material relied upon in support of the motion and cite the particular portions of any pleading, affidavit,
3 deposition, interrogatory answer, admission, or other document relied upon to establish that fact.”
4 Compliance with Local Rule 260(a) is mandatory, and as a result of Plaintiff’s failure to include a
5 Statement of Undisputed Facts with his motion, it is procedurally defective and should be denied,
6 without prejudice, on that ground. Accordingly, it is HEREBY RECOMMENDED that Plaintiff’s
7 motion for summary judgment be DENIED, without prejudice.

8 This Findings and Recommendation will be submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days**
10 after being served with this Findings and Recommendation, the parties may file written objections
11 with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and
12 Recommendation.” The parties are advised that failure to file objections within the specified time may
13 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
14 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

15
16 IT IS SO ORDERED.

17 Dated: September 23, 2019


18 UNITED STATES MAGISTRATE JUDGE