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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL M. COTTRELL,

Plaintiff,

No. 2:09-cv-0824 JAM CKD P

vs.

M. WRIGHT, et al.,

Defendants.

ORDER

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Pursuant to the Ninth Circuit’s recent decision in Woods v. Carey, Nos. 09-15548, 09-16113, – F.3d. –, 2012 WL 2626912 (9th Cir. July 6, 2012), the court hereby reminds plaintiff of the following requirements for opposing the motion for summary judgment filed by the defendants on November 4, 2011.<sup>1</sup> Plaintiff has filed an opposition to the motion for summary judgment. (See Dkt. No. 57.) The motion arises under Rule 56 of the Federal Rules of Civil Procedure. Such a motion is a request for an order for judgment in favor of the defendant without trial. A defendant’s motion for summary judgment will set forth the facts that the defendant contends are not reasonably subject to dispute and that entitle the defendant to judgment. To oppose a motion for summary judgment, plaintiff must show proof of his or her

\_\_\_\_\_ <sup>1</sup> Plaintiff was also advised of these requirements on December 29, 2009. (See Dkt. No. 15.)

1 claims. Plaintiff may do this in one or more of the following ways. Plaintiff may rely on  
2 plaintiff's statements made under penalty of perjury in the complaint if the complaint shows that  
3 plaintiff has personal knowledge of the matters stated and plaintiff specifies those parts of the  
4 complaint on which plaintiff relies. Plaintiff may serve and file one or more affidavits or  
5 declarations setting forth the facts that plaintiff believes prove plaintiff's claims; the person who  
6 signs an affidavit or declaration must have personal knowledge of the facts stated. Plaintiff may  
7 rely on written records, but plaintiff must prove that the records are what plaintiff asserts they  
8 are. Plaintiff may rely on all or any part of the transcript of one or more depositions, answers to  
9 interrogatories, or admissions obtained in this proceeding. If plaintiff fails to contradict the  
10 defendant's evidence with counteraffidavits or other admissible evidence, the court may accept  
11 defendant's evidence as true and grant the motion. If there is some good reason why such facts  
12 are not available to plaintiff when required to oppose a motion for summary judgment, the court  
13 will consider a request to postpone consideration of the defendant's motion. See FED. R. CIV. P.  
14 56(d). If plaintiff does not serve and file a written opposition to the motion, or a request to  
15 postpone consideration of the motion, the court may consider the failure to act as a waiver of  
16 opposition to the defendant's motion. See L.R. 230(l). If the court grants the motion for  
17 summary judgment, whether opposed or unopposed, judgment will be entered for the defendant  
18 without a trial and the case will be closed as to that defendant. Unsigned affidavits or  
19 declarations will be stricken, and affidavits or declarations not signed under penalty of perjury  
20 have no evidentiary value.

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1 Plaintiff now having received the notice required under Woods, 2012 WL  
2 2626912, IT IS HEREBY ORDERED that plaintiff will be provided 21 days to file additional  
3 evidentiary materials regarding defendants' motion for summary judgment, although it is not  
4 required. No extensions will be given.

5 Dated: July 13, 2012

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8 CAROLYN K. DELANEY  
9 UNITED STATES MAGISTRATE JUDGE  
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