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

ANTHONY WILLIAMS,

Plaintiff,

No. 2: 09-cv-3160 KJN P

vs.

SULLIVAN, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action filed pursuant to 42 U.S.C. § 1983. On April 30, 2012, defendants filed a motion for summary judgment. On June 20, 2012, the court granted plaintiff a sixty day extension of time to file his opposition to defendants' motion.

Pursuant to the Ninth Circuit's recent decision in Woods v. Carey, __ F.3d __, 2012 WL 2626912 (9th Cir., July 06, 2012), it is necessary to provide contemporaneous notice to plaintiff of the requirements for opposing a motion for summary judgment.

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1 The Ninth Circuit requires that pro se prisoner plaintiffs be provided notice of the
2 requirements for opposing a motion for summary judgment “at the time the defendants’ motions
3 are filed.” Woods, 2012 WL 2626912 at *1, *5, citing Rand v. Rowland, 154 F.3d 952, (9th Cir.
4 1998) (en banc); see also Klinge v. Eikenberry, 849 F.2d 409, 411-12 (9th Cir. 1988). The
5 district court may provide such notice if defendants fail to do so. Woods, 2012 WL 2626912 at
6 *5. When provided by defendant, the notification must be set forth in “a separate document,
7 served with the moving papers, and state[] that the court has required that it be given.” Rand,
8 154 F.3d at 960; Woods, 2012 WL 2626912 at *4. The Ninth Circuit held that these
9 requirements apply to both “pending and future cases.” Woods at *6.

10 In the present case, defendants filed a motion for summary judgment without
11 apparently providing the requisite notice to plaintiff. (See Dkt. No. 50.) In light of Woods, this
12 court finds it necessary notify plaintiff of the requirements for opposing the motion, as set forth
13 below.

14 For the foregoing reasons, IT IS HEREBY ORDERED that:

15 1. Plaintiff is hereby informed of the following requirements for opposing a
16 motion for summary judgment:

17 Pursuant to Woods v. Carey, __ F.3d __, 2012 WL 2626912 (9th
18 Cir., July 06, 2012, Rand v. Rowland, 154 F.3d 952, 957 (9th Cir.
19 1998) (en banc), and Klinge v. Eikenberry, 849 F.2d 409 (9th
20 Cir. 1988), the following requirements apply for opposing a motion
21 for summary judgment pursuant to Fed. R. Civ. P. 56. Such a
22 motion is a request for an order for judgment in favor of the
23 defendant without trial. A defendant’s motion for summary
24 judgment will set forth the facts that the defendant contends are not
25 reasonably subject to dispute and that entitle the defendant to
26 judgment.

 To oppose a motion for summary judgment, plaintiff must show
proof of his or her claims. Plaintiff may do this in one or more of
the following ways. Plaintiff may rely on plaintiff’s statements
made under penalty of perjury in the complaint if the complaint
shows that plaintiff has personal knowledge of the matters stated
and plaintiff specifies those parts of the complaint on which
plaintiff relies. Unsigned affidavits or declarations will be
stricken, and affidavits or declarations not signed under penalty of

1 perjury have no evidentiary value. Plaintiff may serve and file one
2 or more affidavits or declarations setting forth the facts that
3 plaintiff believes prove plaintiff's claims; the person who signs an
4 affidavit or declaration must have personal knowledge of the facts
5 stated. Plaintiff may rely on written records, but plaintiff must
6 prove that the records are what plaintiff asserts they are. Plaintiff
7 may rely on all or any part of the transcript of one or more
8 depositions, answers to interrogatories, or admissions obtained in
9 this proceeding.

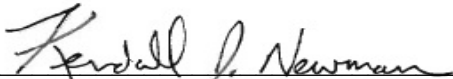
10 If plaintiff fails to contradict the defendant's evidence with
11 counteraffidavits or other admissible evidence, the court may
12 accept defendant's evidence as true and grant the motion. If there
13 is some good reason why such facts are not available to plaintiff
14 when required to oppose a motion for summary judgment, the
15 court will consider a request to postpone consideration of the
16 defendant's motion. See Fed. R. Civ. P. 56(d).

17 If plaintiff does not serve and file a written opposition to the
18 motion, or a request to postpone consideration of the motion, the
19 court may consider the failure to act as a waiver of opposition to
20 the defendant's motion. See L.R. 230(l).

21 If the court grants the motion for summary judgment, whether
22 opposed or unopposed, judgment will be entered for the defendant
23 without a trial and the case will be closed as to that defendant. In
24 the present case, summary judgment for defendant would end the
25 entire case.

26 2. Plaintiff's opposition to defendants' summary judgment motion is due within
forty-five days of the date of this order. No further requests for extension of time to file an
opposition will be granted.

DATED: July 18, 2012


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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