Ш

1	
2	
3	
4	
5	
6	
7	
8	IN THE UNITED STATES DISTRICT COURT
9	FOR THE EASTERN DISTRICT OF CALIFORNIA
10	
11	RENE MEDINA,
12	Plaintiff, No. CIV S-10-0502 LKK GGH P
13	VS.
14	KATHLEEN DICKINSON, et al.,
15	Defendants. <u>ORDER</u>
16	/
17	By Order filed on May 10, 2012, the court, inter alia, ordered plaintiff to re-serve
18	his discovery requests upon defendants, directing defendants to serve responses on an expedited
19	basis. Defendants' motion for summary judgment was vacated subject to re-notice once
20	defendants had served their discovery responses, after which plaintiff was granted thirty days to
21	file his opposition (or supplemental opposition), after which defendants were given seven days to
22	file any reply. See docket # 55. Defendants re-noticed the motion for summary judgment on
23	June 27, 2012.
24	/////
25	/////
26	/////
	1

Plaintiff was previously informed of the requirements to oppose a motion for
summary judgment pursuant to <u>Rand v. Rowland</u>, 154 F.3d 952, 957 (9th Cir. 1998).<sup>1</sup> However,
in light of <u>Woods v. Carey</u>, --- F.3d ----, 2012 WL 2626912 (9th Cir. July 6, 2012), plaintiff will
be informed again.

Pursuant to Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998) (en banc), 5 cert. denied, 527 U.S. 1035 (1999), and Klingele v. Eikenberry, 849 F.2d 409 (9th Cir. 1988), 6 7 plaintiff is advised of the following requirements for opposing a motion for summary judgment made by defendants pursuant to Rule 56 of the Federal Rules of Civil Procedure. Such a motion 8 is a request for an order for judgment in favor of defendants without trial. A defendant's motion 9 for summary judgment will set forth the facts that the defendants contend are not reasonably 10 subject to dispute and that entitle the defendants to judgment. To oppose a motion for summary 11 judgment, plaintiff must show proof of his or her claims. Plaintiff may do this in one or more of 12 the following ways. Plaintiff may rely upon statements made under the penalty of perjury in the 13 complaint if the complaint shows that plaintiff has personal knowledge of the matters stated and 14 15 plaintiff calls to the court's attention those parts of the complaint upon which plaintiff relies. Plaintiff may serve and file one or more affidavits or declarations setting forth the facts that 16 plaintiff believes prove plaintiff's claims; the person who signs an affidavit or declaration must 17 have personal knowledge of the facts stated. Plaintiff may rely upon written records, but 18 plaintiff must prove that the records are what plaintiff claims they are. Plaintiff may rely upon 19 20 all or any part of the transcript of one or more depositions, answers to interrogatories, or admissions obtained in this proceeding. If plaintiff fails to contradict the defendants' evidence 21 with counter-affidavits or other admissible evidence, the defendants' evidence may be taken as 22 23 the truth and the defendants' motion for summary judgment granted. If there is some good

24

 <sup>&</sup>lt;sup>1</sup> Without actually setting forth the requirements for opposing a motion for summary judgment, defendants refer plaintiff in their notice/re-notice of motion to the <u>Rand/Klingele</u> notice the court had provided previously. <u>See</u> docket #56.

1	reason why such facts are not available to plaintiff when required to oppose a motion for
2	summary judgment, the court will consider a request to postpone considering the defendants'
3	motion. If plaintiff does not serve and file a written opposition to the motion or a request to
4	postpone consideration of the motion, the court may consider the failure to act as a waiver of
5	opposition to the defendants' motion. If the defendants' motion for summary judgment, whether
6	opposed or unopposed, is granted, judgment will be entered for the defendants without a trial and
7	the case will be closed. A motion or opposition supported by unsigned affidavits or declarations
8	will be stricken.
9	In light of the timing of this notice, plaintiff will be granted one extension of time
10	to file his opposition/supplemental opposition.
11	Accordingly, IT IS ORDERED that plaintiff is granted until August 15, 2012, to
12	provide his opposition with all supporting evidence.
13	DATED: July 11, 2012
14	<u>/s/ Gregory G. Hollows</u> UNITED STATES MAGISTRATE JUDGE
15	
16	GGH:009 medi0502.ord6
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
	3

I

I