

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

TONY L. BURNS,

Plaintiff,

No. 2:10-cv-01563 MCE KJN PS

v.

OFCR KEVIN BARRETO;  
OFCR MARK SIMONSON OF  
THE BENICIA POLICE DEPT,

Defendants.

ORDER

Defendants’ motion for summary judgment was previously set for a hearing to take place on March 15, 2012. (Minute Order, Feb. 10, 2012, Dkt. No. 48.)<sup>1</sup> Plaintiff timely sought an extension of time or continuance of the hearing date and briefing schedule pursuant to Federal Rule of Civil Procedure 56(d), so that he could obtain and review documents he claimed he needed to oppose defendants’ motion for summary judgment. Despite deficiencies in plaintiff’s initial request, the court granted plaintiff two additional opportunities to make a sufficient showing under Rule 56(d). (Order, Feb. 29, 2012, Dkt. No. 52; Order, Apr. 3, 2012, Dkt. No. 55.) On February 23, 2012, plaintiff filed an ex parte request (Dkt. No. 50) seeking an

---

<sup>1</sup> This case proceeds before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 extension of time in which to oppose defendants' motion for summary judgment. However, on  
2 April 11, 2012, plaintiff withdrew his ex parte request (Dkt. No. 56).

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Plaintiff's ex parte request made pursuant to Federal Rule of Civil  
5 Procedure 56(d) (Dkt. No. 50) is withdrawn.

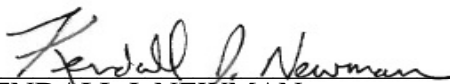
6 2. A hearing on defendants' motion for summary judgment shall take place  
7 on Thursday, **May 31, 2012**, at 10:00 a.m., in Courtroom 25.

8 3. Plaintiff shall file a written opposition or statement of non-opposition on  
9 or before **May 3, 2012**. Plaintiff is cautioned that his opposition must conform with Federal  
10 Rule of Civil Procedure 56 and the court's Local Rules, including Local Rule 260, which  
11 contains specific provisions governing motions for summary judgment and oppositions thereto.

12 4. Defendants may file a reply brief on or before **May 10, 2012**.

13 IT IS SO ORDERED.

14 DATED: April 13, 2012

15  
16   
17 KENDALL J. NEWMAN  
18 UNITED STATES MAGISTRATE JUDGE  
19  
20  
21  
22  
23  
24  
25  
26