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

10 JOHN HENRY HART,

11 Plaintiff,

No. CIV S-10-1672 FCD EFB PS

12 vs.

13 PAE GOVERNMENT SERVICES
14 INCORPORATED,

15 Defendant.

ORDER

16 This case, in which plaintiff is proceeding *pro se*, is before the undersigned pursuant to
17 Eastern District of California Local Rule 302(c)(21). *See* 28 U.S.C. § 636(b)(1). On July 5,
18 2011, plaintiff filed his third motion for summary judgment in this action.¹ Dckt. No. 22.
19 However, once again, plaintiff's summary judgment motion does not comply with the
20 requirements set forth in Local Rules 230(b) and 260(a), in that it was not noticed for hearing,
21 does not contain any supporting authority or evidence, and was not accompanied by a Statement
22 of Undisputed Facts. *See* E.D. Cal. L.R. 230(b) ("[A]ll motions shall be noticed on the motion
23 calendar of the assigned Judge or Magistrate Judge. The moving party shall file with the Clerk a
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25 ¹ Plaintiff also filed motions for summary judgment on October 12, 2010 and March 1,
26 2011, which were denied without prejudice as premature and procedurally improper. Dckt. Nos.
6, 7, 22, 24.

1 notice of motion, motion, accompanying briefs, affidavits, if appropriate, and copies of all
2 documentary evidence that the moving party intends to submit in support of the motion.”);
3 260(a) (“Each motion for summary judgment or summary adjudication shall be accompanied by
4 a ‘Statement of Undisputed Facts’ that shall enumerate discretely each of the specific material
5 facts relied upon in support of the motion and cite the particular portions of any pleading,
6 affidavit, deposition, interrogatory answer, admission or other document relied upon to establish
7 that fact.”).

8 Further, once again, the motion fails to indicate why or how plaintiff is entitled to
9 summary judgment and is nearly unintelligible. A party seeking summary judgment bears the
10 responsibility of informing the district court and the opposing party of the specified ground for
11 its motion. *Katz v. Children’s Hosp. of Orange County*, 28 F.3d 1520, 1534 (9th Cir. 1994).

12 Finally, it appears plaintiff’s motion is still premature since the court recently granted
13 defendant’s motion to compel plaintiff’s deposition and responses to document requests, in
14 which defendant indicated that plaintiff has not appeared for his deposition and has not
15 responded to any of defendant’s discovery requests.² Dckt. No. 33. Although the court has
16 construed plaintiff’s objections to that order as a motion for reconsideration, which will be heard
17 on August 3, 2011, it is apparent that defendant has not yet been able to complete discovery in
18 this action. *See* Dckt. No. 23 at 2 (citing *Portland Retail Druggists Ass’n v. Kaiser Found.*
19 *Health Plan*, 662 F.2d 641, 645 (9th Cir. 1981)); *see also* *Martinez v. Whitman*, 2010 WL
20 475347, at *1 (E.D. Cal. Feb. 4, 2010) (citing *Portsmouth Square, Inc., v. Shareholders*
21 *Protective Comm.*, 770 F.2d 866, 869 (9th Cir. 1985) (“The case must be sufficiently advanced
22 in terms of pretrial discovery for the summary judgment target to know what evidence likely can
23 be mustered and be afforded a reasonable opportunity to present such evidence.”)).

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25 ² Plaintiff’s summary judgment motion also appears to include a request that he not have
26 to appear for his deposition. Dckt. No. 38 at 2. However, because that request is procedurally
improper and plaintiff has not shown that he is entitled to such relief, the request is denied.

1 Accordingly, plaintiff's motion for summary judgment, Dckt. No. 38, is denied without
2 prejudice.

3 SO ORDERED.

4 DATED: July 11, 2011.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE