



1 Further, the Court provides herein for plaintiff’s information the following notice in  
2 connection with defendants’ pending motion for summary judgment<sup>1</sup>:

3 **NOTICE — WARNING (SUMMARY JUDGMENT)**

4 If defendants move for summary judgment, they are seeking to have your case  
5 dismissed. A motion for summary judgment under Rule 56 of the Federal Rules of Civil  
6 Procedure will, if granted, end your case.

7 Rule 56 tells you what you must do in order to oppose a motion for summary  
8 judgment. Generally, summary judgment must be granted when there is no genuine issue of  
9 material fact – that is, if there is no real dispute about any fact that would affect the result of  
10 your case, the party who asked for summary judgment is entitled to judgment as a matter of  
11 law, which will end your case. When a party you are suing makes a motion for summary  
12 judgment that is properly supported by declarations (or other sworn testimony), you cannot  
13 simply rely on what your complaint says. Instead, you must set out specific facts in  
14 declarations, depositions, answers to interrogatories, or authenticated documents, as provided  
15 in Rule 56(c), that contradict the facts shown in the defendants’ declarations and documents  
16 and show that there is a genuine issue of material fact for trial. If you do not submit your  
17 own evidence in opposition, summary judgment, if appropriate, may be entered against you.  
18 If summary judgment is granted, your case will be dismissed and there will be no trial.

19 **NOTICE — WARNING (EXHAUSTION)**

20 If defendants file an unenumerated motion to dismiss for failure to exhaust, they are  
21 seeking to have your case dismissed. If the motion is granted it will end your case.

22 A motion to dismiss for failure to exhaust administrative remedies is similar to a  
23 motion for summary judgment in that the court will consider materials beyond the pleadings.  
24 You have the right to present any evidence you may have which tends to show that you did  
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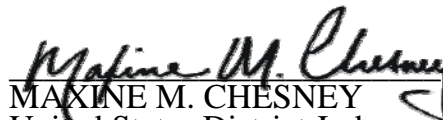
26 <sup>1</sup> See Woods v. Carey, 684 F.3d 934, 935 (9th Cir. 2012) (holding notice requirement  
27 set out in Rand v. Rowland, 154 F.3d 952 (9th Cir. 1998), must be served concurrently with  
28 motion for summary judgment); Woods, 684 F.3d at 935 (holding notice requirement set out  
in Wyatt v. Terhune, 315 F.3d 1108 (9th Cir. 2003), must be served concurrently with  
motion to dismiss for failure to exhaust available administrative remedies).

1 exhaust your administrative remedies. Such evidence may be in the form of declarations  
2 (statements signed under penalty of perjury) or authenticated documents, that is, documents  
3 accompanied by a declaration showing where they came from and why they are authentic, or  
4 other sworn papers, such as answers to interrogatories or depositions.

5 If defendants file a motion to dismiss and it is granted, your case will be dismissed and  
6 there will be no trial.

7 IT IS SO ORDERED.

8 DATED: January 7, 2013

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11 MAXINE M. CHESNEY  
12 United States District Judge  
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