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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAKAREEM J. HOWELL,  
Plaintiff,  
v.  
C. TRAN, et al.,  
Defendants.Case No. [15-cv-05377-SI](#)**ORDER DENYING MOTION FOR  
SUMMARY JUDGMENT WITHOUT  
PREJUDICE**

Re: Dkt. No. 31

The order of service stated that, if defendants filed a motion for summary judgment, they “must provide to plaintiff a new *Rand* notice regarding summary judgment procedures at the time they file such a motion. *See Woods v. Carey*, 684 F.3d 934, 939 (9th Cir. 2012).” Docket No. 13 at 6; *see Rand v. Rowland*, 154 F.3d 934, 939 (9th Cir. 2012). Defendants’ motion for summary judgment was not accompanied by a proper *Rand* notice. Although a paragraph in the motion (*see* Docket No. 31 at 2) includes the information required by *Rand*, that does not fully satisfy *Rand* because *Rand* also requires that the notice “be in a *separate form* that the plaintiff will recognize as given pursuant to the court’s requirement. It may not be provided within the summary judgment motion or in the papers ordinarily filed in support of the motion.” *Rand*, 154 F.3d at 960 (emphasis added). Meticulous compliance with the *Rand* notice requirement is necessary. The failure to comply with the *Rand* and *Woods* notice requirement continues to be a quick route to reversal if a motion for summary judgment is granted. *See, e.g., Nelson v. Peck*, 2016 WL 6892509 (9th Cir. Nov. 23, 2016) (provision of *Rand* notice at outset of case but not concurrently with the motion for summary judgment was reversible error). To avoid the possibility of such a reversal, defendants’ motion for summary judgment (Docket No. 31) is DENIED for failure to provide the *Rand* notice in a separate document. The denial of the motion for summary judgment is without prejudice to

United States District Court  
Northern District of California

1 defendants filing a new motion for summary judgment that is accompanied by a *Rand* notice.

2 The court now sets the following briefing schedule for the new motion for summary  
3 judgment: Defendants must file and serve a new motion for summary judgment with a *Rand*  
4 notice no later than **August 18, 2017**. Plaintiff must file and serve his opposition to the new  
5 motion for summary judgment no later than **September 8, 2017**. Defendants must file and serve  
6 their reply (if any) no later than **September 22, 2017**.

7 The court notes that plaintiff has filed an opposition to the motion for summary judgment.  
8 In ruling on the new motion for summary judgment, the court will consider those opposition  
9 papers already filed by plaintiff, as well as any additional opposition materials plaintiff files by the  
10 September 8, 2017 deadline.

11 In order to avoid a similar problem in future motions for summary judgment in other *pro*  
12 *se* prisoner cases, Defendants' counsel is urged to share with other members of his office the fact  
13 that his motion was denied for failure to meticulously comply with *Rand* notice requirements.

14 **IT IS SO ORDERED.**

15 Dated: August 8, 2017



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SUSAN ILLSTON  
United States District Judge

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