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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY SMITH,
Plaintiff,
v.
ROSANA LIM-JAVATE, et al.,
Defendants.

Case No. [16-cv-01278-SI](#)

ORDER
Re: Dkt. No. 11

The order of service stated that any motion for summary judgment 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. 3 at 3; *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 includes the information required by *Rand* (*see* Docket No. 11 at 5-6), 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. 11) is DENIED for failure to provide the *Rand* notice in a separate document. The denial of

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the motion for summary judgment is without prejudice to defendants filing a new motion for summary judgment that is accompanied by a *Rand* notice.

The court now sets the following briefing schedule for the new motion for summary judgment: Defendants must file and serve a new motion for summary judgment with a *Rand* notice no later than **March 24, 2017**. Plaintiff must file and serve his opposition to the new motion for summary judgment no later than **April 21, 2017**. Defendants must file and serve their reply (if any) no later than **May 5, 2017**.

IT IS SO ORDERED.

Dated: March 9, 2017



SUSAN ILLSTON
United States District Judge