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

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|-----------------------|---|-------------------------|
| CESAR ALFARO, |) | No. C 10-04416 EJD (PR) |
| |) | |
| Plaintiff, |) | ORDER |
| |) | |
| vs. |) | |
| |) | |
| D. HIGGERSON, et al., |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

The Ninth Circuit recently held that "Rand and Wyatt notices must be served concurrently with motions to dismiss and motions for summary judgment so that pro se prisoners will have fair, timely and adequate notice of what is required of them in order to oppose those motions." Woods v. Carey, Nos. 09-15548 & 09-16113, slip op. 7871, 7874 (9th Cir. July 6, 2012). Because it appears that a Rand notice was not served concurrently with the pending motion for summary judgment in this case, the Court will provide said notice now:

Plaintiff is advised that a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case. Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no

1 genuine issue of material fact – that is, if there is no real dispute about any
2 fact that would affect the result of your case, the party who asked for
3 summary judgment is entitled to judgment as a matter of law, which will
4 end your case. When a party you are suing makes a motion for summary
5 judgment that is properly supported by declarations (or other sworn
6 testimony), you cannot simply rely on what your complaint says. Instead,
7 you must set out specific facts in declarations, depositions, answers to
8 interrogatories, or authenticated documents, as provided in Rule 56(e), that
9 contradicts the facts shown in the defendant's declarations and documents
10 and show that there is a genuine issue of material fact for trial. If you do
11 not submit your own evidence in opposition, summary judgment, if
12 appropriate, may be entered against you. If summary judgment is granted,
13 your case will be dismissed and there will be no trial. Rand v. Rowland,
14 154 F.3d 952, 962-63 (9th Cir. 1998) (en banc) (App A).

15 Plaintiff's opposition is currently due **no later than July 29, 2012**. Defendant shall file a
16 reply to within 15 days thereafter.

17
18 DATED: 7/10/2012


19 _____
EDWARD J. DAVILA
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 CESAR ALFARO,

6 Plaintiff,

7 v.

8 JAMES TILTON et al,

9 Defendant.
10 _____/

Case Number: CV10-04416 EJD

CERTIFICATE OF SERVICE

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
12 Court, Northern District of California.

13 That on July 13, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
15 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
16 receptacle located in the Clerk's office.

17 Cesar Alfaro E-68257
18 Pelican Bay State Prison
19 P.O. Box 7500
20 Crescent City, CA 95531

21 Dated: July 13, 2012

22 Richard W. Wieking, Clerk
23 /s/ By: Elizabeth Garcia, Deputy Clerk
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