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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

WHITTIER BUCHANAN,
CDCR #K-02554,

Plaintiff,

vs.

EDUARDO GARZA; LUI FUGA; ROY
BAKER; RICARDO LIMON; ANGEL
SALCEDO; HODGE,

Defendants.

Civil Case No. 08cv1290 BTM (WVG)

**ORDER PROVIDING NOTICE
TO PRO SE PRISONER OF
REQUIREMENTS FOR
OPPOSING SUMMARY
JUDGMENT PURSUANT
TO *KLINGELE* / *RAND*
AND SETTING BRIEFING
SCHEDULE**

This notice is required to be given to Plaintiff pursuant to *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998) (en banc) and *Klinge*le v. *Eikenberry*, 849 F.2d 409 (9th Cir. 1988):¹

Plaintiff has filed a Motion for Summary Judgment pursuant to FED.R.CIV.P. 56. In turn, Defendants Baker, Fuga, Garza, Hodge, Limon and Salcedo have filed a partial Motion for Summary Judgment pursuant to FED.R.CIV.P. 56, by which they seek to have a portion of your case dismissed. A Motion for Summary Judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

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¹ *Klinge*le and *Rand* together require the district court “as a bare minimum,” to ensure that a pro se prisoner has “fair notice of the requirements of the summary judgment rule.” *Klinge*le, 849 F.2d at 411 (quotations omitted); *Rand*, 154 F.3d at 962.

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

13 **Conclusion and Order**

14 Accordingly, **IT IS ORDERED** that

15 Plaintiff’s Motion for Summary Judgment and Defendants’ Cross-Motion for Partial
16 Summary Judgment has been calendared for hearing on **Friday, December 9, 2011**, in
17 Courtroom 15.² Plaintiff’s Opposition (including any supporting documents) to Defendants’
18 Motion must be filed with the Court and served on all parties by **Friday, November 25, 2011**.
19 Defendants have already filed an Opposition to Plaintiff’s Motion. If you do not wish to oppose
20 Defendants’ Motion, you should file and serve a “Notice of Non-Opposition” by that same date
21 to let both the Court and Defendants know that the Motion is unopposed. All parties must file
22 their Reply to the respective Oppositions, if any, by **Friday, December 2, 2011**.

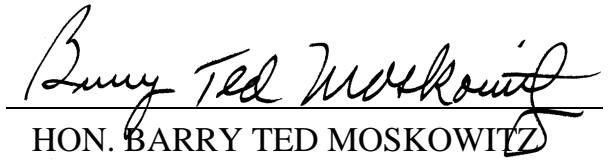
23 At the time appointed for hearing, the Court will, in its discretion, consider Defendants’
24 Motion for Summary Judgment pursuant to FED.R.CIV.P. 56 as submitted on the papers, and will
25 issue its written opinion soon thereafter. *See* S.D.CAL. CIVLR 7.1(d)(1). Thus, unless otherwise

26
27 ² While this matter was referred to Magistrate Judge William V. Gallo, for disposition pursuant
28 to 28 U.S.C. § 636(b)(1)(A) and S.D. CAL. CIVLR 72.3, the Court has determined that a Report and
Recommendation regarding the pending dispositive motions is unnecessary. *See* S.D. CAL. CIVLR
72.3(a).

1 ordered, no appearances are required and no oral argument will be heard.

2 **IT IS SO ORDERED.**

3 DATED: October 6, 2011



HON. BARRY TED MOSKOWITZ
United States District Judge

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