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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ROBERT McCULLOCK,

Plaintiff,

vs.

N. SCHARR, et al.,

Defendants.

Case No.: 19-cv-2110-DMS (DEB)

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

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

Defendants filed a Motion for Summary Judgment, Dkt. No. 35, requesting a judgment in their favor. 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 will be granted when there is no genuine dispute

¹ *KlingeLe* 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.” *KlingeLe*, 849 F.2d at 411 (quotations omitted); *Rand*, 154 F.3d at 962.

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

12 **Conclusion and Order Setting Briefing Schedule**

13 The Court orders that:

- 14 1. Plaintiff may file an Opposition or a Notice of Non-Opposition to Defendants’
15 Motion for Summary Judgment (Dkt. No. 35) with the Court and must serve it on
16 Defendants on or before **March 19, 2021**.
- 17 2. If Plaintiff files an Opposition, Defendants may file a Reply and must serve it on
18 Plaintiff on or before **April 2, 2021**.

19 Following these dates, the Court will, in its discretion, consider Defendants’ Motion
20 for Summary Judgment as submitted on the papers, and will issue its written opinion soon
21 thereafter. *See* CivLR 7.1(d)(1). Thus, unless otherwise ordered, no appearances are
22 required, and no oral argument will be heard.

23 **IT IS SO ORDERED.**

24 Dated: February 16, 2021

25 

26 Honorable Daniel E. Butcher
27 United States Magistrate Judge
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