

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KYLE LEE PAYMENT,

Plaintiff,

v.

CHERYL ROIKO, PATRICK GLEBE,

Defendants.

CASE NO. C14-5633 BHS-KLS

PRETRIAL SCHEDULING ORDER

The Court hereby establishes the following pretrial schedule:

(1) Discovery

All discovery shall be completed by **April 10, 2015**. Service of responses to interrogatories and to requests to produce, and the taking of depositions, shall be completed by this date. Federal Rule of Civil Procedure 33(a) requires answers or objections to be served within thirty (30) days after service of the interrogatories. The serving party, therefore, must serve his/her interrogatories at least thirty (30) days before the deadline in order to allow the other party time to answer.

1 (2) Dispositive Motions

2 Any dispositive motion shall be filed and served on or before **June 10, 2015**. Pursuant to
3 LCR 7(b), any argument being offered in support of a motion shall be submitted as a part of the
4 motion itself and not in a separate document. The motion shall include in its caption
5 (immediately below the title of the motion) a designation of the date the motion is to be noted for
6 consideration upon the Court's motion calendar. Dispositive motions shall be noted for
7 consideration on a date no earlier than the fourth Friday following filing and service of the
8 motion. LCR 7(d)(3).

9 All briefs and affidavits in opposition to any motion shall be filed and served pursuant to
10 the requirements of Rule 7 of the Federal Rules of Civil Procedure and LCR 7. The party
11 making a motion may file and serve a reply to the opposing party's briefs and affidavits. Any
12 reply brief shall also be filed and served pursuant to the requirements of Rule 7 of the Federal
13 Rules of Civil Procedure and LCR 7.

14 Defendants are reminded that they **MUST** serve a *Rand* notice, in a separate document,
15 concurrently with motions to dismiss based on a failure to exhaust and motions for summary
16 judgment so that *pro se* prisoner plaintiffs will have fair, timely and adequate notice of what is
17 required of them in order to oppose those motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir.
18 2012). The Ninth Circuit has set forth model language for such notices:

19 A motion for summary judgment under Rule 56 of the Federal Rules of
20 Civil Procedure will, if granted, end your case.

21 Rule 56 tells you what you must do in order to oppose a motion for
22 summary judgment. Generally, summary judgment must be granted when
23 there is no genuine issue of material fact – that is, if there is no real
dispute about any fact that would affect the result of your case, the party
who asked for summary judgment is entitled to judgment as a matter of
law, which will end your case. When a party you are suing makes a

1 motion for summary judgment that is properly supported by declarations
2 (or other sworn testimony), you cannot simply rely on what your
3 complaint says. Instead, **you must set out specific facts in declarations,
4 depositions, answers to interrogatories, or authenticated documents,
5 as provided in Rule 56(e), that contradict the facts shown in the
6 defendant's declarations and documents and show that there is a
7 genuine issue of material fact for trial. If you do not submit your own
8 evidence in opposition, summary judgment, if appropriate, may be
9 entered against you. If summary judgment is granted, your case will
10 be dismissed and there will be no trial.**

11 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added). Defendants who fail to
12 file and serve the required *Rand* and notice on the plaintiff may have their motion stricken from
13 the Court's calendar with leave to re-file.

14 (3) Joint Pretrial Statement

15 The parties are advised that a deadline for filing a Joint Pretrial Statement may be
16 established at a later date pending the outcome of any dispositive motions.

17 (4) Proof of Service and Sanctions

18 All motions, pretrial statements and other filings shall be accompanied by proof that such
19 documents have been served upon counsel for the opposing party or upon any party acting *pro*
20 *se*. The proof of service shall show the day and manner of service and may be by written
21 acknowledgment of service, by certificate of a member of the bar of this Court, by affidavit of
22 the person who served the papers, or by any other proof satisfactory to the Court. Failure to
23 comply with the provisions of the Order can result in dismissal/default judgment or other
appropriate sanctions.


//

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

(5) The Clerk of Court is directed to send a copy of this Order to plaintiff and to counsel for defendants.

Dated this 10th day of October, 2014.


Karen L. Strombom
United States Magistrate Judge