

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOSEPH R. PULLIAM, CASE NO. 1:07-cv-964-LJO-MJS (PC)  
Plaintiff, ORDER DENYING PLAINTIFF'S REQUEST  
v. FOR LEAVE TO FILE REPLY PLEADING  
R. LOZANO, et al., (ECF No. 36)  
Defendants.

Plaintiff Joseph R. Pulliam (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Before the Court is Plaintiff’s Request for Leave of Court to File Reply Brief. (ECF No. 36.)

In his Request, Plaintiff states that he recently obtained a California State Prisoner's Handbook from which he learned that once Defendants filed an answer, Plaintiff had twenty days to file a reply. Plaintiff notes that Defendants filed their Answer to his Complaint on April 27, 2010, but Plaintiff never filed a reply because he was unaware of the need to do so. He asks the Court for leave to file a reply now to ensure he properly prosecutes his case.

The Court appreciates Plaintiff's desire to diligently prosecute his case. However, the rule cited by Plaintiff, Federal Rule of Civil Procedure 12(a), applies only if the Court orders a party to file a reply to an answer. In this case, the Court did not order Plaintiff to file a reply. The Court does not here desire such a reply. In fact, had Plaintiff filed a reply

1 to Defendants' April 27, 2010 Answer, the Court would have ordered it stricken from the  
2 record. Fed. R. Civ. P. 7(a). At this point in the litigation, with discovery underway for over  
3 six months, a reply pleading would not in any event be helpful.

4 Accordingly, Plaintiff's Motion for leave to file a reply pleading is DENIED.  
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6 IT IS SO ORDERED.  
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Dated: November 8, 2010

*/s/ Michael J. Seng*  
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