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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL J. PAYAN,

 Plaintiff,

 v.

TATE, et al.,

 Defendants.

Case No. 1:13-cv-00807-LJO-BAM (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS RECOMMENDING
THAT DEFENDANTS’ MOTION TO
DISMISS BE PARTIALLY GRANTED AND
PARTIALLY DENIED AND
RECOMMENDING GRANTING MOTION
TO STRIKE UNAUTHORIZED SURREPLY**

(ECF Nos. 109, 129, 147)

Plaintiff Michael J. Payan (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action under 42 U.S.C. § 1983.

On March 6, 2017, the Magistrate Judge issued Findings and Recommendations that Plaintiff’s unauthorized surreply be stricken from the record and Defendants’ motion to dismiss be GRANTED IN PART and DENIED IN PART as follows: (1) Plaintiff’s state law claims be dismissed for failure to comply with the Government Claims Act; and (2) Defendants’ motion to dismiss be denied in all other respects. (ECF No. 147.) The Findings and Recommendations were served the parties, and contained notice that any objections were to be filed within fourteen (14) days. (*Id.*, p. 13.) More than fourteen days have passed and no objections have been filed.

In accordance with 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the Findings and

1 Recommendations to be supported by the record and by proper analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. The Findings and Recommendations issued on March 6, 2017, are adopted in full;
- 4 2. Plaintiff's unauthorized surreply (ECF No. 128) is stricken from the record; and
- 5 3. Defendants' motion to dismiss (ECF No. 109) is GRANTED IN PART and DENIED
- 6 IN PART as follows:
- 7 a. Plaintiff's state law claims are dismissed for failure to comply with the
- 8 Government Claims Act; and
- 9 b. Defendants' motion to dismiss is denied in all other respects.
- 10 4. This action is referred back to the Magistrate Judge for further proceedings consistent
- 11 with this order.

12 IT IS SO ORDERED.

13 Dated: March 30, 2017

14 /s/ Lawrence J. O'Neill
15 UNITED STATES CHIEF DISTRICT JUDGE

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