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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JONATHAN CODY,
Plaintiff,
v.
JEFFREY BEARD, et al.,
Defendants.

No. 1:14-cv-01239-DAD-BAM (PC)
ORDER DENYING DEFENDANTS’
MOTION TO STRIKE
(Doc. No. 36)

On February 19, 2016, the assigned magistrate judge issued a findings and recommendations recommending that the court grant defendants’ motion for partial summary judgment. (Doc. No. 25.) On March 17, 2016, plaintiff filed objections to the findings and recommendation. (Doc. No. 27.) On March 28, 2016, defendants filed a response to plaintiff’s objections. (Doc. No. 28.) Plaintiff then filed a surreply on April 25, 2016. (Doc. No. 34.)

Currently before the court is defendants’ motion to strike plaintiff’s surreply. (Doc. No. 36.) Defendants argue that plaintiff’s filing of a surreply violates Local Rule 304, which provides for objections to finding and recommendations and a response to those objections, but does not authorize the filing of a surreply. Furthermore, defendants note that the court did not request leave to file a surreply, nor did the court grant such leave.

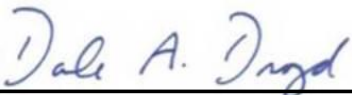
Defendants are correct that neither the Federal Rules of Civil Procedure nor the Local Rules contemplate or authorize the filing of a surreply. Also, in this case the court did not

1 request, nor did plaintiff seek leave to file his unauthorized surreply. Nevertheless, in an
2 abundance of caution, the court has exercised its discretion and considered plaintiff's surreply in
3 determining whether to adopt the magistrate judge's findings and recommendations. However,
4 the court found that nothing in plaintiff's submissions, including his surreply, that undermined the
5 magistrate judge's analysis, and the findings and recommendations in question were adopted in
6 full. (Doc. No. 37.)

7 For the reasons set forth above, defendants' motion to strike (Doc. No. 36) is denied.

8 IT IS SO ORDERED.

9 Dated: May 13, 2016



UNITED STATES DISTRICT JUDGE

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