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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER LIPSEY, JR.,)	1:17-cv-00569-LJO-BAM (PC)
Plaintiff,)	ORDER STRIKING PLAINTIFF’S REPLY TO ANSWER
vs.)	ORDER REQUIRING DEFENDANTS TO RESPOND TO SETTLEMENT CONFERENCE REQUEST
DR. REDDY, et al.,)	
Defendants.)	[Doc. 42]

I. Introduction and Background

Plaintiff Christopher Lipsey is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff’s third amended complaint against Defendants Hernandez, Celedon, and Mancilla for excessive force in violation of the Eighth Amendment.

On February 1, 2018, Defendants filed an answer to Plaintiff’s third amended complaint. (Doc. 40.) The Court issued a discovery and scheduling order on February 2, 2018. (Doc. 41.)

On March 29, 2018, Plaintiff filed a document titled, “Summary Judgment &/or adjudication request in respond (sic) to defendants’ answer.” (Doc. 42.) Defendants filed a response on April 16, 2018, (Doc. 44), and Plaintiff filed a reply to the response on May 18, 2018, (Doc. 48.) Plaintiff’s filing is deemed submitted.

1 **II. Reply to Answer**

2 Plaintiff’s filing, although labeled as a request for summary judgment or adjudication, is
3 in substance a reply to Defendants’ answer. Specifically, Plaintiff sets forth a response to each
4 of Defendants’ affirmative defenses in the answer and contests those defenses.

5 In relevant part, the Federal Rules of Civil Procedure provide that there shall be a
6 complaint, an answer to a complaint, and, if the court orders one, a reply to an answer. Fed. R.
7 Civ. P. 7(a). As stated above, in reviewing Plaintiff’s filing, it seeks to generally deny the
8 answer and the defenses raised in the answer, and is therefore a reply to the answer. Plaintiff did
9 not seek leave to file any reply to the answer, the Court has not ordered a reply to Defendants’
10 answer, and the Court declines to require any reply to the answer.

11 Accordingly, Plaintiff’s filing made on March 29, 2018 is construed as a reply to
12 Defendants’ answer to the third amended complaint, and shall be stricken from the record.

13 **III. Request for Settlement Conference**

14 In Plaintiff’s filing, he asserts a desire to engage in a settlement conference. As a result,
15 the Court finds it appropriate to inquire as to whether Defendants believe, in good faith, that
16 settlement in this case is a possibility and whether the parties are interested in having a
17 settlement conference scheduled by the Court.

18 **IV. Conclusion and Order**

19 Accordingly, it is HEREBY ORDERED that:

- 20 1. Plaintiff’s filing on March 29, 2018 (Doc. 42) is construed as a reply to
21 Defendants’ answer to the third amended complaint, and is stricken from the record;
- 22 2. Within **fourteen (14) days** from the date of service of this order, Defendants shall
23 file a written response to this order regarding whether a settlement conference would benefit this
24 matter;
- 25 3. Defendant may address any scheduling issues and/or security and transport
26 concerns in their response, if necessary; and

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4. If a settlement conference is agreeable to all parties, then the Court will issue a separate order setting the conference date and indicating each of the parties' responsibilities regarding the settlement conference.

IT IS SO ORDERED.

Dated: June 12, 2018

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE