



1 plaintiff's job as a waste manager. (Doc. No. 86 at 7.) In his opposition, plaintiff argues that  
2 defendant Pruitt must have been aware of those safety risks because he was plaintiff's supervisor,  
3 and was the individual to whom plaintiff had directed his concerns regarding the weight of the  
4 waste bags he was required to lift. (Doc. No. 88 at 1–2.) Plaintiff also relies on citations to  
5 defendant's declaration as in attempt to show no genuine dispute of material fact exists. (*Id.*) In  
6 reply, defendant counters that plaintiff misrepresents both the legal standard applicable to motions  
7 for summary judgment and defendant's prior arguments in opposition to plaintiff's motion, and  
8 finally, defendant repeats the facts which he contends establish the existence of a dispute as to  
9 whether he had knowledge of any alleged safety risks to plaintiff. (Doc. No. 90 at 2–4.)

10 The undersigned agrees with the magistrate judge's determination that a genuine dispute  
11 of material fact exists as to defendant Pruitt's knowledge of any alleged safety risks. Plaintiff's  
12 objections provide no basis upon which to reject the pending findings and recommendations  
13 because they merely recount the evidence submitted in support of his motion and do not address  
14 the evidence upon which defendant has relied. Both parties have presented evidence which  
15 disputes the other's position. Accordingly, summary judgment cannot be entered in favor of  
16 either party.

17 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, this  
18 court has conducted a de novo review of this case. Having carefully reviewed the entire file,  
19 including plaintiff's objections and defendant's reply, the court finds the findings and  
20 recommendations to be supported by the record and proper analysis.

21 Accordingly:

- 22 1. The June 2, 2021 findings and recommendations (Doc. No. 86) are adopted in full;
- 23 and
- 24 2. Plaintiff's motion for summary judgment (Doc. No. 74) is denied;
- 25 3. Defendant's motion for summary judgment (Doc. No. 78) is denied; and

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4. The matter is referred back to the magistrate judge for further proceedings consistent with this order.

IT IS SO ORDERED.

Dated: July 19, 2021

  
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UNITED STATES DISTRICT JUDGE