IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT DUANE FRANKLIN,

Plaintiff, No. 2: 07-cv-2259 FCD KJN P

vs.

G. DUDLEY,

Defendant. ORDER

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For the following reasons, plaintiff is granted thirty days to file a new opposition to defendant's summary judgment motion filed July 30, 2010.

On June 15, 2010, plaintiff filed a motion to compel. On August 12, 2010, plaintiff filed a motion for extension of time to file his opposition to the summary judgment motion. On September 1, 2010, the court denied plaintiff's motion to compel and granted him twenty-eight days to file his opposition. On September 2, 2010, plaintiff filed an opposition to defendant's summary judgment motion.

On September 15, 2010, plaintiff filed a motion to strike his opposition. Plaintiff states that he prepared his September 2, 2010 opposition before the court ruled on his motion to compel and motion for extension of time to file an opposition. Plaintiff requests that his original opposition be stricken and that he be allowed to file a new opposition.

Although it is unclear how a new opposition would be different from the original opposition, plaintiff's motion to strike is granted. Plaintiff is permitted to file a new opposition.

On September 8, 2010, defendant filed a motion for a three day extension of time to file a reply to plaintiff's opposition. Because the opposition is ordered stricken, the motion for extension of time is denied as unnecessary. Defendant will be permitted to file a reply to plaintiff's new opposition.

Accordingly, IT IS HEREBY ORDERED that:

1. Defendant's motion for extension of time (Dkt. No. 76) is denied;

2. Plaintiff's motion to strike (Dkt. No. 78) is granted; plaintiff's opposition filed September 2, 2010 (Dkt. No. 74) is stricken; plaintiff may file an opposition to defendant's summary judgment motion within thirty days of the date of this order; defendant may file a reply within fourteen days thereafter.

DATED: October 5, 2010

KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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