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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES ANTHONY GUERRERO

Plaintiff,

No. 2:10-cv-0318 GEB DAD P

vs.

S. McCLURE, et al.,

Defendants.

ORDER

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Plaintiff, a state prisoner, is proceeding pro se with a civil rights complaint filed pursuant to 42 U.S.C. § 1983. Pending before the court is a motion by defendants J. Fecht, D. Ferguson and R. Fox to strike additional briefing filed by plaintiff in opposition to their pending motion for summary judgment.

On August 17, 2012, defendants J. Fecht, D. Ferguson and R. Fox moved for summary judgment pursuant to Fed. R. Civ. P. 56. (Doc. No. 83.) On September 4, 2012, plaintiff filed a response to that motion for summary judgment which included plaintiff’s own unsigned declaration. (Doc. No. 84.) On September 14, 2012, defendants J. Fecht, D. Ferguson and R. Fox filed objections to plaintiff’s evidence and a reply brief, noting that plaintiff’s declaration was unsigned. (Doc. Nos. 85, 86.) Subsequently, plaintiff filed three separate statements of fact (Doc. Nos. 87, 88 [styled as an “opposition”], 92) and another opposition to

1 the pending motion for summary judgment (Doc. No. 89). Defendants J. Fecht, D. Ferguson and  
2 R. Fox have moved to strike plaintiff's submission which followed his initial opposition (Doc.  
3 Nos. 87, 88, 89 and 92) as unauthorized pleading. (Doc. No. 94.) In the alternative, defendants  
4 Fecht, Ferguson and Fox request 30 days leave to file a reply to the merits of plaintiff's  
5 additional filings.

6 Under the local rule governing prisoner actions, proper briefing of a motion in this  
7 court consists of the moving party's motion, the responding party's opposition or statement of  
8 non-opposition, and the moving party's optional reply to the opposition. See Local Rule 230(1).  
9 In light of plaintiff's pro se status, however, in this instance the court will consider his various  
10 unauthorized supplemental submissions as his opposition to the pending motion for summary  
11 judgment. Plaintiff is advised that future unauthorized briefing will not be considered except  
12 with leave of court which may be sought by filing an application for leave to submit  
13 supplemental briefing.

14 In accordance with the above, IT IS HEREBY ORDERED THAT:

- 15 1. Defendants' motion to strike plaintiff's additional briefing (Doc. No. 94)  
16 is DENIED;
- 17 2. The court will consider plaintiff's supplemental filings (Doc. Nos. 87-89  
18 & 92) in ruling on the pending motion for summary judgment brought on  
19 behalf of defendants Fecht, Ferguson and Fox ; and
- 20 3. Defendants are granted seven days from the date of this order to file a  
21 reply brief, if any, addressing the merits to plaintiff's additional briefing  
22 on the motion.

23 DATED: February 11, 2013.

24  
25 DAD: 11  
26 guer0318.strikebrief

  
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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE