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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS JOHN HEILMAN,
Plaintiff,
v.
TODD WASKO,
Defendant.

No. 2:12-cv-01966 AC P

ORDER

Plaintiff, a state prisoner, has filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff proceeds with a single claim under the First Amendment against defendant Todd Wasko. On March 28, 2013, defendant filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b) asserting that plaintiff failed to exhaust available administrative remedies. ECF No. 23. Plaintiff filed an opposition to the motion and defendant filed a reply. ECF Nos. 24, 25. Subsequently, plaintiff filed a second opposition which defendant has moved to strike as an unauthorized surreply. ECF Nos. 26, 27.

Under the local rule governing prisoner actions, proper briefing of a motion in this court consists of the moving party’s motion, the responding party’s opposition or statement of non-opposition, and the moving party’s optional reply to the opposition. See Local Rule 230(l). Here, in light of plaintiff’s pro se status, and because defendant will not suffer prejudice, the court will consider plaintiff’s second opposition to the motion to dismiss. Plaintiff is advised, however, that future unauthorized briefing will not be considered except with leave of court which may be

1 sought by filing a motion for leave to submit supplemental briefing. Sua sponte, defendant is
2 granted 14 days from the date of this order in which to reply to plaintiff's second opposition,
3 should defendant wish to do so.

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

- 5 1. Defendant's motion to strike plaintiff's unauthorized surreply (ECF No. 27) is
6 DENIED;
- 7 2. Defendant is granted 14 days from the date of this order in which to reply to plaintiff's
8 second opposition filed on May 3, 2013.

9 DATED: July 10, 2013

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ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

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