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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 JOSEPH JOHNSON,

12 Plaintiff,

13 v.

14 E. SANDY, et al.,

15 Defendants.
16

No. 2:12-cv-2922 JAM AC P

ORDER

17 Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42
18 U.S.C. § 1983. Currently before the court are plaintiff's motion to amend various motion-related
19 documents (ECF No. 178) and defendants' motion to strike plaintiff's surreply (ECF No. 182).

20 Shortly after briefing of defendants' motions for summary judgment was completed,
21 plaintiff filed a motion seeking leave to amend his response to the motions and his own motion
22 for summary judgment in order to comply with the proper procedures. ECF No. 178. Defendants
23 opposed the motion (ECF Nos. 179, 180) and plaintiff proceeded to file a response to defendants'
24 statements of undisputed facts (ECF No. 181). Defendants have moved to strike plaintiff's
25 response as an unauthorized surreply. ECF No. 182.

26 Plaintiff's motion to amend will be granted in part. The motion will be granted to the
27 extent that the court will consider his response to defendants' statements of undisputed facts and
28 allow defendants an opportunity to reply.

1 To the extent plaintiff may seek to make any other amendment to his response, the motion
2 will be denied because plaintiff has not provided a proposed copy of the amended response.
3 Additionally, though plaintiff states that he is ignorant of the proper procedures, all three sets of
4 defendants provided him with a Rand¹ notice which explained the requirements for opposing a
5 motion for summary judgment. ECF Nos. 164-1, 165-1, 166. The notice provided by defendants
6 represented by the Attorney General's Office also included an explanation of the requirements
7 under Local Rule 260 related to responding to defendants' statement of undisputed facts. ECF
8 No. 166 at 4.

9 As for plaintiff's request to amend his own motion for summary judgment, he previously
10 sought leave to re-file his untimely motion for summary judgment (ECF No. 172) and that motion
11 was denied (ECF No. 173). Plaintiff does not have a summary-judgment motion before the court
12 and his motion for leave to amend will therefore be denied. Because the court will consider
13 plaintiff's response to defendants' statements of undisputed facts and allow defendants to reply,
14 defendants' motion to strike will be denied.


15 Accordingly, IT IS HEREBY ORDERED that:

16 1. Plaintiff's motion to amend (ECF No. 178) is granted to the extent that the court will
17 consider plaintiff's response to defendants' statements of undisputed facts (ECF No. 181). The
18 motion is denied in all other respects.

19 2. Defendants shall have ten days from service of this order to reply to plaintiff's
20 response to their statements of undisputed facts (ECF No. 181).

21 3. Defendants' motion to strike (ECF No. 182) is denied.

22 DATED: September 1, 2016

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24 ALLISON CLAIRE
25 UNITED STATES MAGISTRATE JUDGE
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28 ¹ Rand v. Rowland, 154 F.3d 952 (9th Cir. 1998).