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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT COLEMAN,  
Plaintiff,  
v.  
CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION, et al.,  
Defendants.

No. 2-13-cv-1021 JAM KJN P

ORDER

Defendants filed their first motion for extension of time to file a reply to plaintiff's 107 page opposition to defendants' motion for summary judgment. Plaintiff objects to defendants' request for extension of time, claiming defendants were previously granted extensions of time and should have obtained the necessary documents by now. However, defendants' prior extensions of time were granted in response to their obligation to file a responsive pleading. Defendants' instant request seeks additional time to file a reply to plaintiff's lengthy opposition. Plaintiff's objections are overruled, and good cause appearing, defendants' request for extension of time to file a reply is granted.

On October 10, 2014, defendants filed a motion to strike portions of plaintiff's objections to defendants' request for extension of time because plaintiff included arguments concerning defendants' motion for summary judgment. Defendants contend that plaintiff's arguments

1 pertaining to the pending motion for summary judgment are an improper and unauthorized  
2 pleading because plaintiff intended them to serve as a sur-reply to defendants' motion for  
3 summary judgment.

4 Defendants' arguments are well-taken. Plaintiff's statements and arguments concerning  
5 exhaustion of administrative remedies relevant to the pending motion for summary judgment that  
6 he included within his objections to the request for extension of time were improperly filed and  
7 are stricken. Accordingly, the following portions of plaintiff's objections are stricken: page 5,  
8 line 18, through page 8, line 7, and Exhibit A attached thereto. (ECF No. 49 at 5:18 - 8:7 and Ex.  
9 A.) If plaintiff seeks to file a sur-reply to defendants' opposition, he must seek leave of court to  
10 do so, after defendants have filed their reply. Moreover, plaintiff is cautioned that requests to file  
11 sur-replies are not routinely granted. See El Pollo Loco v. Hashim, 316 F.3d 1032, 1040-41 (9th  
12 Cir. 2003) (When a party has raised new arguments or presented new evidence in a reply to an  
13 opposition, the court may permit the other party to counter the new arguments or evidence.). In  
14 other words, if plaintiff has addressed the arguments and evidence in his opposition, he should not  
15 attempt to renew such arguments in a sur-reply.

16 IT IS HEREBY ORDERED that:

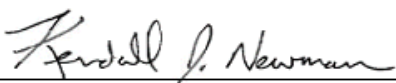
- 17 1. Defendants' motion for an extension of time (ECF No. 47) is granted;
- 18 2. Defendants shall file their reply on or before November 3, 2014;
- 19 3. Defendants' motion to strike portions of plaintiff's objections (ECF No. 50) is granted;

20 and

21 4. The following portions of plaintiff's objections (ECF No. 49) are stricken: page 5,  
22 line 18, through page 8, line 7, and Exhibit A attached thereto. (ECF No. 49 at 5:18 - 8:7 and Ex.  
23 A.)

24 Dated: October 27, 2014

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE