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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH BIVINS,
Plaintiff,
v.
DR. JU,
Defendant.

No. 2:16-cv-0389 MCE KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel and in forma pauperis. Plaintiff's three motions are before the court.

Defendants filed their motion for summary judgment on December 22, 2017. On December 29, 2017, plaintiff filed a three page opposition, and two motions for judicial notice. However, none of these three filings were signed by plaintiff. Plaintiff is advised that all documents submitted to the court for filing must be signed by plaintiff. Fed. R. Civ. P. 11(a).

However, on January 22, 2018, plaintiff filed a motion for extension of time to file and serve an opposition to the motion for summary judgment. In the meantime, on January 25, 2018, plaintiff filed a second opposition to the motion for summary judgment, which included his 12 page opposition and numerous exhibits. These exhibits included some of the pages from the administrative appeals appended to plaintiff's motions for judicial notice that were not signed by plaintiff. (Appeal log FSP HC 15015865 (ECF No. 45 at 108-11; 152-53; 155-58), and Appeal


1 log FSP 1706541 (ECF No. 45 at 131-33).) This 200 page opposition was signed by plaintiff on
2 January 22, 2018.

3 Plaintiff is advised that he may file one opposition to the motion for summary judgment.
4 Because plaintiff corrected his failure to sign the prior opposition by signing the second
5 opposition, the undersigned strikes plaintiff's first opposition under Rule 11, and deems
6 plaintiff's second opposition as timely-filed. Thus, plaintiff's motion for an extension of time is
7 rendered moot. Moreover, because the opposition includes at least some portion of the
8 administrative appeals included in his motions for judicial notice, the Clerk of the Court is
9 directed to detach the exhibits appended to the motions for judicial notice and append them to
10 plaintiff's opposition as 45-1 and 45-2, respectively. Plaintiff's motions for judicial notice are
11 stricken, but the exhibits will be taken into consideration in addressing defendants' motion for
12 summary judgment. In light of this ruling, defendants are granted an extension of time in which
13 to file their reply to the opposition.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. Plaintiff's motion for an extension of time (ECF No. 44) is denied as moot;
- 16 2. Plaintiff's December 29, 2017 opposition (ECF No. 41) is stricken;
- 17 3. Plaintiff's January 25, 2018 opposition (ECF No. 45) is deemed timely-filed;
- 18 4. The Clerk of the Court is directed to detach the exhibits to plaintiff's motions for
19 judicial notice (ECF No. 42 at 2-40 and ECF No. 43 at 2-40) and append them as exhibits to
20 plaintiff's opposition (ECF No. 45) as ECF Nos. 45-1 and 45-2, respectively;
- 21 5. Plaintiff's motions for judicial notice (ECF Nos. 42 & 43) are stricken; and
- 22 6. Defendants are granted fourteen days from the date of this order in which to file and
23 serve a reply, if any.

24 Dated: January 31, 2018

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26 _____
27 KENDALL J. NEWMAN
28 UNITED STATES MAGISTRATE JUDGE

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