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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MONTE L. HANEY,
Plaintiff,
v.
S. JOHNSON, et al.,
Defendants.

No. 2: 16-cv-1173 TLN KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s November 28, 2018 motion for an extension of time to file a sur-reply to defendants’ reply to plaintiff’s objections. (ECF No. 61.) Plaintiff filed the sur-reply on November 30, 2018. (ECF No. 63.) Also pending is defendants’ motion to strike plaintiff’s sur-reply. (ECF No. 64.) For the reasons stated herein, plaintiff’s motion for an extension of time is denied and defendants’ motion to strike is granted.

On October 17, 2018, the undersigned recommended that defendants’ summary judgment motion be granted in part and denied in part. (ECF No. 57.) The findings and recommendations granted the parties fourteen days to file objections. (Id.) The findings and recommendations further stated that any response to objections was due within fourteen days after service of the objections. (Id.)

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1 On October 31, 2018, defendants filed objections. (ECF No. 58.) On November 1, 2018,
2 plaintiff filed objections. (ECF No. 59.) On November 14, 2018, defendants filed a reply to
3 plaintiff's objections. (ECF No. 60.) On January 18, 2018, the Honorable Judge Troy L. Nunley
4 adopted the October 17, 2018 findings and recommendations. (ECF No. 67.)

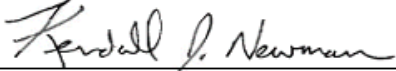
5 Generally, parties do not have the right to file sur-replies, which is the document plaintiff
6 filed on November 30, 2018. See Rowland v. Beard, 2018 WL 4372795 at *1 (E.D. Cal. 2018).
7 The Court generally views motions for leave to file sur-replies with disfavor. Id., citing Hill v.
8 England, 2005 WL 3031136, at *1 (E.D. Cal. 2005) (citing Fedrick v. Mercedes-Benz USA,
9 LLC, 366 F. Supp. 2d 1190, 1197 (N.D. Ga. 2005)). However, district courts have the discretion
10 to either permit or preclude a sur-reply. See U.S. ex rel. Meyer v. Horizon Health Corp., 565
11 F.3d 1195, 1203 (9th Cir. 2009), overruled on other grounds by U.S. ex. Rel. Hartpence v. Kinetic
12 Concepts Inc., 792 F.3d 1121 (9th Cir. 2015) (district court did not abuse discretion in refusing to
13 permit "inequitable sur-reply").

14 As observed by defendants in the motion to strike, plaintiff's sur-reply largely duplicates
15 his objections to the findings and recommendations. (See ECF Nos. 59, 63.) Plaintiff has not
16 shown good cause to allow the filing of this largely duplicative pleading.

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. Plaintiff's motion for extension of time to file a sur-reply (ECF No. 61) is denied;
- 19 2. Defendants' motion to strike plaintiff's sur-reply (ECF No. 64) is granted.

20 Dated: February 1, 2019

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23 KENDALL J. NEWMAN
24 UNITED STATES MAGISTRATE JUDGE

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