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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMUEL SALDANA,
Plaintiff,
v.
M.E. SPEARMAN, et al.,
Defendants.

No. 2:18-cv-0319 AC P
ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983, has filed a motion to strike defendant’s declaration in support of his motion for summary judgment. ECF No. 63. He requests that the declaration be stricken on the ground that it is not dated. Id. Review of the declaration reveals that the date is incomplete. ECF No. 56-4 at 3. Defendant Passwater will be given an opportunity to remedy his defective declaration and he may submit a properly signed and dated declaration. See 28 U.S.C. § 1746 (unsworn declarations must include the date on which they are executed). It is not necessary for defendant to resubmit the attachment to his declaration. Failure to submit an amended declaration will result in the original declaration being disregarded.

Plaintiff also requests that the memorandum attached to the declaration be stricken because it is not dated. ECF No. 63. However, there is no requirement that the attached memorandum be dated to be admissible, and regardless, it is dated August 8, 2017. ECF No. 56-4 at 5.

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Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion to strike, ECF No. 63, is DENIED.
2. Within seven days of the service of this order defendant Passwaters shall file a properly signed and dated declaration. Failure to do so will result in the original declaration being disregarded.

DATED: May 3, 2021



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE