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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NOEL RAMIREZ,
Plaintiff,
v.
CITY OF HAYWARD, et al.,
Defendants.

Case No. [14-cv-01264-MEJ](#)
**ORDER FOR SUPPLEMENTAL
BRIEFING**
Re: Dkt. Nos. 32, 38

Plaintiff Noel Ramirez brings this 42 U.S.C. § 1983 action against the City of Hayward (the “City”), Police Officer Richard McLeod, and Officers Doe 1-25 (collectively “Defendants”) for the alleged use of excessive force during his March 4, 2013 arrest. Pending before the Court is Defendants’ Motion for Summary Judgment (Dkt. No. 38, “MSJ”), as well as McLeod’s to Motion to Dismiss (Dkt. No. 32, “MTD”). The Court held a hearing on these matters on July 2, 2015. Dkt. No. 49.

Having considered the parties’ positions, relevant legal authority, and the record in this case, the Court requires supplemental briefing concerning four of Plaintiff’s claims that were not adequately addressed in the parties’ briefing: (1) Plaintiff’s first cause of action, an unreasonable search and seizure claim against McLeod for a violation of the Fourth Amendment; (2) Plaintiff’s fourth cause of action, an assault and battery claim against McLeod; (3) Plaintiff’s seventh cause of action, a claim against McLeod for a violation of California Civil Code section 52.1(b) for interference with Plaintiff’s exercise and enjoyment of his civil rights under the United States and California Constitutions; and (4) Plaintiff’s eighth cause of action, a claim for negligence against McLeod. Officer McLeod argues that all the claims against him are barred under Federal Rule of Civil Procedure 4(m)—including the claims above. MSJ at 4-5. He also argues that California

1 Government Code section 945.6 bars Plaintiff's state law claims against him because Plaintiff
2 filed his First Amended Complaint—the first complaint to properly name McLeod—on August
3 29, 2014, which was more than six months after the City sent Plaintiff notice of the rejection of his
4 claim. *Id.* at 6-8. But there was no argument from either party about the four claims above in the
5 event that the Court did not accept Defendants' arguments under Rule 4(m) or section 945.6.

6 Accordingly, **by July 16, 2015**, Defendants shall file a supplemental brief addressing the
7 four claims above, or a statement that they waive arguments as to those claims. If Defendants file
8 a supplemental brief, Plaintiff shall file a response **by July 23, 2015**. Each supplemental brief
9 should be no longer than 10 pages total, exclusive of related declarations and related evidence.
10 The Court will consider amendments to this briefing schedule in the event that the parties are able
11 to agree to an alternative schedule and provide such a stipulation to the Court.

12 **IT IS SO ORDERED.**

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14 Dated: July 9, 2015

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17 MARIA-ELENA JAMES
18 United States Magistrate Judge
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