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2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4 OAKLAND DIVISION
5

6 ROBERT NALDUCCI,

7 Plaintiff,

8 vs.

9 PETER GEREN, Secretary of the Army,

10 Defendant.

Case No: CV 06-7702 SBA

ORDER RE FURTHER BRIEFING

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12 Defendant's motion for summary judgment currently is set for hearing for May 19, 2009.
13 On May 8, 2009, Defendant filed a Supplemental Declaration of Melissa K. Brown in Support of
14 Motion for Summary Judgment. (See L.R. 7-3(d) (reply papers due at least 14 days prior to the
15 hearing date).) In the supplemental declaration, Defendant makes additional arguments in support
16 of his summary judgment motion based on the deposition of Dr. Lennart Suther, which was taken
17 on May 4, 2009. In fairness to Plaintiff, the Court will allow Plaintiff to file a surreply that
18 addresses only the issues raised in the supplemental declaration.

19 IT IS HEREBY ORDERED THAT by no later than May 18, 2009, Plaintiff may file a
20 surreply, no longer than two pages, that addresses the issues presented in Defendant's supplemental
21 declaration (Docket 89). The motion hearing scheduled for May 19, 2009 is VACATED. The
22 Court will notify the parties in the event argument on the motion is necessary. However, the Court,
23 pursuant to its discretion under Federal Rule of Civil Procedure 78(b), may resolve the motion
24 based on the papers submitted.

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26 Dated: May 12, 2009



Hon. Saundra Brown Armstrong
United States District Judge