

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3
4 DEREK KERR,

No. C 10-5733 CW

5 Plaintiff,

ORDER STRIKING
PLAINTIFF'S
OBJECTIONS TO
DEFENDANTS'

6 v.

EVIDENCE IN
SUPPORT OF THEIR
MOTION FOR SUMMARY
JUDGMENT (Docket
No. 70)

7 THE CITY AND COUNTY OF SAN
8 FRANCISCO; MITCHELL H. KATZ;
MIVIC HIROSE; and COLLEEN RILEY,

9 Defendants.

10 _____/

11 On May 31, 2012, Defendants City and County of San
12 Francisco, Mitchell H. Katz, Mivic Hirose, and Colleen Riley filed
13 a motion for summary judgment on Plaintiff Derek Kerr's claims
14 against them. Docket No. 40. At that time, Defendants submitted,
15 among other items, the declarations of Katz, Riley and Hirose in
16 support of their motion. Docket Nos. 41-43.

17 On June 13, 2012, the Court granted the parties' stipulation
18 to extend the briefing and hearing schedule on Defendants' motion.
19 Docket No. 51. Pursuant to the Court's Order, Plaintiff had until
20 July 19, 2012 to file his opposition to Defendants' motion for
21 summary judgment.

22 On July 19, 2012, Plaintiff filed his thirty-page opposition
23 to Defendants' motion. Docket No. 60. Because he initially
24 improperly docketed the brief as a new motion, Plaintiff re-filed
25 his opposition the following day. Docket No. 65.

26 On July 26, 2012, Defendants filed their reply in support of
27 their motion for summary judgment. Docket No. 67.

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1 On July 31, 2012, Plaintiff filed a new four page document
2 containing evidentiary objections to the declarations of Katz,
3 Riley and Hirose. Docket No. 70. Plaintiff also attached
4 evidence in support of his objections, including excerpts from
5 depositions of Riley apparently taken on June 6, 2011 and April 2,
6 2012.

7 Plaintiff's new filing violates Civil Local Rule 7-3(a),
8 which concerns the requirements for opposition briefs and
9 memoranda and states, "Any evidentiary and procedural objections
10 to the motion must be contained within the brief or memorandum."
11 Because the declarations of Katz, Riley and Hirose were submitted
12 with Defendants' motion and not with their reply, Plaintiff's
13 filing also was not authorized by Civil Local Rule 7-3(d)(1),
14 which allows a party to file an objection to new evidence that the
15 opposing party has submitted with its reply brief. Further, the
16 Court notes that it granted Plaintiff leave to file excess pages
17 in opposition to Defendants' motion for summary judgment, which
18 Plaintiff has already utilized. See Docket Nos. 52, 53, 65.

19 Accordingly, the Court STRIKES Plaintiff's newly-filed
20 evidentiary objections to the declarations of Katz, Riley and
21 Hirose, including the evidence that Plaintiff has submitted in
22 support of these objections (Docket No. 70).

23 IT IS SO ORDERED.

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25 Dated: 8/1/2012



CLAUDIA WILKEN
United States District Judge

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