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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GREGORY NICHOLAS STESHENKO,

No. C 09-5543 RS

Plaintiff,

v.

THOMAS MCKAY, et al.,

Defendants.

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**ORDER DENYING MOTION TO  
STRIKE COLLEGE DEFENDANTS'  
SUMMARY JUDGMENT REPLY  
BRIEF**

Pursuant to Civil Local Rule 7-1(b), the plaintiff's motion to strike the College Defendants' summary judgment reply brief is suitable for disposition without oral argument and the hearing set for November 1, 2012 is vacated. Plaintiff contends the reply brief was untimely because it was filed more than seven days after he filed his opposition. Civil Local Rule 7-3(c) provides that reply briefs "must be filed and served not more than 7 days after the opposition was due." (Emphasis added.) Here, the College Defendants' motion for summary judgment was filed on September 6, 2012. Under the schedule provided by Rule 7, the opposition was therefore due by September 20, 2012, with the reply to be filed no later than September 27, 2012. The College Defendants' reply brief was in fact filed on September 27, 2012 and was therefore timely. The fact that plaintiff elected to file his opposition early did not advance the reply deadline, under the plain and explicit language of the rule. Plaintiff's motion is denied.

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IT IS SO ORDERED.

Dated: 10/1/12



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RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE