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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NICOLAS AQUINO,
Plaintiff,

v.

COUNTY OF MONTEREY SHERIFF'S
DEPARTMENT, et al.,
Defendants.

Case No. [5:14-cv-03387-EJD](#)

**ORDER RE: MOTION TO STRIKE
PLAINTIFF'S UNTIMELY FILED
SUPPLEMENTAL BRIEFING**

Re: Dkt. No. 198

On July 17, 2018, the Court requested simultaneous supplemental briefing, due July 19, 2018 at 12:00 p.m. Dkt. No. 192. Defendants timely filed their brief; Plaintiff, however, filed his brief more than 24 hours late. Dkt. Nos. 195, 197. According to Plaintiff's counsel, a "calendar error" caused the delay. Dkt. No. 199. Defendants now move to strike Plaintiff's supplemental brief. Dkt. No. 198.

"[I]t should never be forgotten that the attorney of record is ultimately responsible for both the form and the content of the materials submitted," including compliance with deadlines. *Dela Rosa v. Scottsdale Mem'l Health Sys., Inc.*, 136 F.3d 1241, 1244 (9th Cir. 1998). Plaintiff bore that responsibility here, and the Court will not tolerate untimeliness or other failures to comply with its orders. Accordingly, the Court has limited its consideration of Plaintiff's supplemental brief to the same arguments and substantive material which he discussed on the record at the July 17, 2018 hearing. Since the Court has now completed its consideration of the parties' supplemental briefs and ruled on their remaining motions *in limine*, it need not further consider the

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BRIEFING**

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instant motion. Defendants' motion to strike is TERMINATED AS MOOT.

IT IS SO ORDERED.

Dated: July 24, 2018



EDWARD J. DAVILA
United States District Judge

Case No.: [5:14-cv-03387-EJD](#)

ORDER RE: MOTION TO STRIKE PLAINTIFF'S UNTIMELY FILED SUPPLEMENTAL BRIEFING