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6 **UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN FRANCISCO DIVISION**
9

10 GARY ARDEN,

11 Plaintiff,

12 v.

13 FRANK KASTELL, et al.,

14 Defendants.
15

Case No. 10-cv-00436 NC

**ORDER DENYING REQUEST
TO PRESENT SUR-REBUTTAL**

Re: Docket Nos. 78, 79

16 The Court has considered Plaintiff's request for leave to present sur-rebuttal
17 evidence to certain evidence included in Defendant Frank Kastell's reply in support of
18 Defendant's motion for summary judgment. Dkt. No. 78. Plaintiff asserts that
19 submission of the expert report of Scott Seaman was, in fact, reply evidence calculated to
20 "surprise plaintiff and deprive him of the opportunity to rebut it." *Id.* Defendant Kastell
21 claims that the Seaman Report was properly submitted in reply to the report of Plaintiff's
22 Expert, Joseph Solga., Esq. Dkt. No. 79.

23 The Court will consider Plaintiff's objections to evidence filed under Civil L.R. 7-
24 3(d). Plaintiff's request to file additional sur-rebuttal evidence, however, is DENIED.

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26 IT IS SO ORDERED.

27 DATED: November 22, 2011

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NATHANAEL M. COUSINS
United States Magistrate Judge