

MAR 08 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FRED C. CARR, JR.,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>ALLIED WASTE SYSTEMS OF ALAMEDA COUNTY; et al.,</p> <p>Defendants - Appellees.</p>

No. 10-15092

D.C. No. 4:09-cv-04675-PJH

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Phyllis J. Hamilton, District Judge, Presiding

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH , Circuit Judges.

Fred C. Carr, Jr., appeals pro se from the district court’s judgment
dismissing his state law action challenging the suspension of his employment. We

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision
without oral argument. *See* Fed. R. App. P. 34(a)(2).

have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Knievel v. ESPN*, 393 F.3d 1068, 1072 (9th Cir. 2005). We affirm.

The district court properly concluded that section 301 of the Labor Management Relations Act, 29 U.S.C. § 185, preempts Carr’s state law claims because they are “inextricably intertwined with consideration of the terms of the labor contract.” *Allis-Chalmers Corp. v. Lueck*, 471 U.S. 202, 213 (1985). Carr’s contentions concerning California Labor Code section 2856 are unpersuasive.

The district court did not violate Carr’s due process rights by striking his unauthorized surreply where Carr filed an opposition and was provided a hearing prior to dismissal. *See SEC v. McCarthy*, 322 F.3d 650, 659 (9th Cir. 2003) (due process requires notice and an opportunity to be heard); *see also* N.D. Cal. Civ. R. 7-3(d) (“Once a reply is filed, no additional memoranda, papers or letters may be filed without prior Court approval”); *Delange v. Dutra Constr. Co.*, 183 F.3d 916, 919 n.2 (9th Cir. 1999) (per curiam) (“District courts have broad discretion in interpreting and applying their local rules.”) (internal citation and quotation marks omitted).

Carr’s remaining contentions are unpersuasive.

AFFIRMED.