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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Fox Salerno,

No. CV-12-489-PHX-ROS (LOA)

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Plaintiff,

ORDER

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vs.

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Charles Ryan, Director of the Arizona
Department of Corrections,

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Defendant.

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This matter is before the Court on Plaintiff’s Motion to Allow a Response to Defendants’ Reply in Support of his Unenumerated Rule 12(b) Motion to Dismiss. (Doc. 25)

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I. Background

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Plaintiff filed a pro se Prisoner Civil Rights Complaint on March 8, 2012, pursuant to 42 U.S.C. § 1983. (Doc.1) After the mandatory screening process, pursuant to 28 U.S.C. § 1915A(a), the Court dismissed the original complaint for failure to state a claim with leave to amend. (Doc. 5) Plaintiff filed a First Amended Complaint on May 15, 2012. (Doc. 7) The Court again conducted the mandatory screening process on the First Amended Complaint and ordered that Counts I and II and Defendant Harris were dismissed without prejudice. (Doc. 9) The Court further ordered that Defendant Ryan must answer Count III of the First Amended Complaint and must file a response to the Motion for Preliminary Injunction, doc. 8. (*Id.*) On August 27, 2012, Defendant Ryan filed Defendant’s

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1 Unenumerated Rule 12(b) Motion to Dismiss. (Doc. 17). Plaintiff filed a Response to
2 Defendant's Motion to Dismiss on September 19, 2012, doc. 23, and Defendant filed a Reply
3 on October 4, 2012, doc. 24.

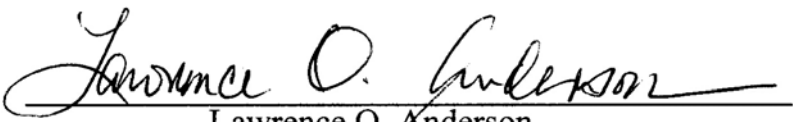
4 **II. Analysis**

5 The Court on its on motion finds that Plaintiff's Motion is an inappropriate filing
6 under the Federal Rule of Civil Procedure 7(a)(7). The rule sets forth the only pleadings that
7 are allowed. Subsection (7) specifically states that a reply to an answer is only permitted if
8 the court orders one. (*Id.*) Plaintiff does not allege, nor does the docket reflect, that the
9 Court ordered a response to Defendants' Reply. Therefore, under Rule 7(a)(7) of the Federal
10 Rules of Civil Procedure, it is an impermissible pleading and the Court will strike it from the
11 record.

12 Accordingly,

13 **IT IS ORDERED** that Plaintiff's Motion to Allow a Response to Defendant's Reply
14 in Support of his Unenumerated Rule 12(B) Motion to Dismiss, doc. 25, is **DENIED**.

15 Dated this 11th day of October, 2012.

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18 Lawrence O. Anderson
19 United States Magistrate Judge
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