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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

RANDALL E. ELLIS,

Plaintiff,

v.

STEVEN CAMBRA, JR., et al.,

Defendants.

CASE NO. 1:02-CV-05646-AWI-SMS-P

ORDER DENYING PLAINTIFF’S REQUEST  
FOR JUDICIAL NOTICE

(Doc. 159)

On September 10, 2010, Plaintiff requested the Court take judicial notice of an excerpt from *Eastman Kodak Co. v. Image-Technical Services, Inc.*, 504 U.S. 451, 456 (1992) and *Anderson v. Liberty Lobby Inc.*, 477 U.S. 242, 249 (1968).

“A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). “A court shall take judicial notice if requested by a party and supplied with the necessary information.” Fed. R. Evid. 201(d).

Plaintiff was allowed to submit legal citations to assist in his argument in opposition to Defendant’s motion for summary judgment. However, judicial notice is a mechanism for submission of a *fact*, not a rule of law or holding of a court. A ruling of a higher court is, at best, precedent for a lower court to follow, but is not a fact subject to judicial notice.

Plaintiff’s request for judicial notice comments and argues in response to Defendants’ reply to his opposition to the motion for summary judgment. It appears that Plaintiff may have filed his

1 request for judicial notice intending it to act as a sur-reply. However, Plaintiff does not have a right  
2 to file a sur-reply under the Local Rules, or the Federal Rules of Civil Procedure, and Plaintiff did  
3 not obtain leave of court to do so.

4 Based on the foregoing, Plaintiff's request for judicial notice is HEREBY DENIED.

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7 IT IS SO ORDERED.

8 **Dated:** October 12, 2010

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE