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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

RAY MEDINA,

1:06-cv-00697-LJO-SMS-PC

Plaintiff,

ORDER STRIKING SURREPLY  
(Doc. 66.)

v.

L. EMARD, et al.,

Defendants.

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Plaintiff Ray Medina (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint commencing this action on June 5, 2006. (Doc. 1.) This action now proceeds on Plaintiff’s original complaint against defendants Emard, Barajas, Bray, Nunley, Razo, and Morales for use of excessive physical force in violation of the Eighth Amendment when they attacked Plaintiff, against defendant Frazer for standing by and watching the attack, against defendant Beagle for inadequate medical care under the Eighth Amendment, and against defendant Emard for retaliation under the First Amendment.<sup>1</sup>

**Plaintiff’s Surreply**

On June 5, 2009, defendants Emard, Barajas, Bray, Nunley, Razo, Morales, Frazer and Beagle (“Defendants”) filed a motion to dismiss, which is now pending. (Doc. 52.) On November

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<sup>1</sup>The Court dismissed all other claims and defendants from this action on October 6, 2008. (Doc. 34.)

1 9, 2009, Plaintiff filed an opposition to the motion. (Doc. 61.) On December 1, 2009, Defendants  
2 filed a reply to Plaintiff's opposition. (Doc. 65.) On December 9, 2009, Plaintiff filed a surreply.  
3 (Doc. 66.)

4 The Local Rules provide for a motion, an opposition, and a reply. Neither the Local Rules  
5 nor the Federal Rules provide the right to file a surreply, and the Court neither requested one nor  
6 granted a request on the behalf of Plaintiff to file one. Accordingly, Plaintiff's surreply shall be  
7 stricken from the record.

8 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's surreply, filed December  
9 9, 2009, is STRICKEN from the record.

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12 IT IS SO ORDERED.

13 **Dated: December 14, 2009**

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE

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