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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VALENTINE E. UNDERWOOD,
Plaintiff,

1:08-cv-00986-GSA-PC

v.

ORDER STRIKING PLAINTIFF’S SURREPLY
(Doc. 64.)

M. KNOWLES, et al.,
Defendants.

_____ /

Valentine E. Underwood ("Plaintiff") is a state prisoner proceeding pro se with this civil rights action pursuant to 42 U.S.C. § 1983. This action now proceeds on Plaintiff's original complaint, filed July 17, 2008, against defendants Northcutt and Martin for retaliation in violation of the First Amendment, and against defendants Northcutt, Martin, Caviness, Lantz, Trujillo, Truitt, and Fambrough for use of excessive force in violation of the Eighth Amendment.¹

On July 21, 2010, defendants Lantz, Fambrough, Northcutt, Truitt and Trujillo ("Defendants") filed a motion to dismiss this action for failure to exhaust remedies. (Doc. 54.) Plaintiff filed an opposition on September 20, 2010, and Defendants filed a reply on September 24, 2010. (Docs. 61, 62.) On October 8, 2010, Plaintiff filed a surreply. (Doc. 64.)

The Local Rules provide for a motion, an opposition, and a reply. Neither the Local Rules nor the Federal Rules provide the right to file a surreply, and the Court neither requested one nor

¹All other claims and defendants were dismissed by the Court on October 21, 2009. (Doc. 31.)

1 granted a request on the behalf of Plaintiff to file one. Accordingly, Plaintiff's surreply, filed
2 October 8, 2010, shall be stricken from the record.

3 Accordingly, IT IS HEREBY ORDERED that Plaintiff's surreply, filed October 8, 2010, is
4 STRICKEN from the Court's record.

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6 IT IS SO ORDERED.

7 **Dated: December 15, 2010**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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