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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NICOLAS DAVID ANDREAS,

CASE NO. 1:08-cv-01410-LJO-SMS PC

Plaintiff,

ORDER STRIKING PLAINTFF’S SUR-REPLY
TO MOTION TO DISMISS

v.

(Doc. 40)

JAMES YATES, et al.,

Defendants.

Plaintiff Nicolas David Andreas, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on September 8, 2008.

Neither the Federal Rules of Civil Procedure nor the Local Rules provides for a sur-reply to a moving party’s reply in a motion to dismiss, absent an order from the court requiring one. Fed. R. Civ. P. 12. In this case, the court did not order a reply to the answer.

Accordingly, Plaintiff’s sur-reply to defendants’ reply, filed May 3, 2010, is HEREBY ORDERED STRICKEN from the record.

IT IS SO ORDERED.

Dated: May 6, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE