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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  
SUPPLEMENT TO SUR-REPLY  
TO MOTION TO DISMISS

v.

JAMES YATES, et al.,

(Doc. 42)

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 sur-reply in opposition to Defendants’ reply such that Plaintiff’s sur-reply to Defendants’ reply, filed May 3, 2010, was ordered stricken from the record.

Accordingly, Plaintiff’s supplement to his sur-reply in support of his opposition to Defendants’ motion to dismiss, filed May 7, 2010, is HEREBY ORDERED STRICKEN from the record.

IT IS SO ORDERED.

**Dated: May 11, 2010**

**/s/ Sandra M. Snyder**  
UNITED STATES MAGISTRATE JUDGE