

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

FLOYD SCOTT,

Plaintiff,

v.

J. PALMER, et al.,

Defendants.

CASE NO. 1:09-cv-01329-AWI-SKO PC

ORDER STRIKING MOTION

(Doc. 38)

Plaintiff Floyd Scott, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on July 29, 2009. This action is proceeding against Defendants Palmer, Rivera, and Lopez for excessive force, in violation of the Eighth Amendment, and there is a scheduling order in place.

On July 12, 2011, Plaintiff filed what is entitled "Plaintiff's Motion on the Unenumerated Rule 12(b) of the FRCP." An unenumerated Rule 12(b) motion is a motion to dismiss brought by the defendants in an action, not by a plaintiff. The filing is not responsive to any pending matter and there is no recognizable basis for the filing. Therefore, the motion ORDERED STRICKEN from the record.

IT IS SO ORDERED.

**Dated: July 15, 2011**

**/s/ Sheila K. Oberto**  
UNITED STATES MAGISTRATE JUDGE