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

TRACY TAYLOR,	)	Case No.: 1:11-cv-00538-LJO-SAB (PC)
	)	
Plaintiff,	)	ORDER GRANTING DEFENDANTS' MOTION
	)	TO STRIKE PLAINTIFF'S "REPLY TO
v.	)	DEFENDANTS COUNTERCLAIM FOR RELIEF"
	)	
SHAYE O'HANNESON, et al.,	)	[ECF Nos. 37, 38]
	)	
Defendants.	)	
	)	
	)	
	)	

Plaintiff Tracy Taylor is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On November 12, 2013, Defendants filed an answer to Plaintiff's first amended complaint. (ECF No. 34.)

On November 22, 2013, Plaintiff filed a document entitled "Plaintiff Reply to Defendants Counterclaim for Relief." (ECF NO. 37.) On December 3, 2013, Defendants filed a motion to strike Plaintiff's Reply. (ECF No. 38.)

Defendants submit that although Plaintiff has titled his pleading as a reply to a counterclaim, Defendants have not yet filed a counterclaim against Plaintiff in this case, and the reply addresses only matters raised in Defendants' answer.

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1 Pursuant to Rule 7(a), of the Federal Rules of Civil Procedure, a reply may be filed to answer,  
2 if so ordered to by the court. Fed. R. Civ. P. 7(a)(7). If an unauthorized reply is filed, it should be  
3 stricken and deemed a nullity.

4 In their answer, Defendants have not raised any counterclaims against Plaintiff. (ECF NO. 34.)  
5 Plaintiff references the prayer for relief section of Defendants' answer and contends they have no right  
6 to those claims. In the prayer for relief section, Defendants request dismissal of the complaint, entry  
7 of judgment for Defendants, costs of suit and attorney's fees, and such other relief as the court deems  
8 necessary. The relief portion of Defendants' answer does not set forth any counterclaims, rather the  
9 prayer for relief is merely the relief to which Defendants claim they are entitled should they prevail in  
10 this action.

11 Federal Rule of Civil Procedure 7(a)(3) provides that only "an answer to a counterclaim  
12 designated as a counterclaim" is allowed as a pleading. Although an answer to a counterclaim is  
13 referenced, it is limited to pleadings that might be construed as counterclaims. Thus, a responsive  
14 pleading is not allowed unless the alleged counterclaim is designated as such. In this case, Defendants  
15 have filed an answer to the complaint, and no counterclaims have been designated. Therefore,  
16 Plaintiff's reply is not authorized, and should be stricken from the record.

17 Based on the foregoing, Defendants' request to strike the reply to the answer from the record  
18 shall is GRANTED, and the Court of Clerk shall strike Plaintiff's reply to Defendants' answer.

19  
20 IT IS SO ORDERED.

21 Dated: December 23, 2013

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24 UNITED STATES MAGISTRATE JUDGE