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

JOSEPH RAY McCOY,	) Case No.: 1:12cv00983 AWI DLB (PC)
	)
Plaintiff,	) ORDER DENYING DEFENDANTS’ MOTION
	) TO STRIKE PLAINTIFF’S REQUEST
v.	) FOR JUDICIAL NOTICE
	)
GONZALES, et al.,	) (Document 48)
	)
Defendants.	)
	)
	)

Plaintiff Joseph Raymond McCoy (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action. Plaintiff filed his complaint on June 19, 2012. This action is proceeding against Defendants Stronach, Gonzales, LeMay, Beltran, Fisher, Snell and Tann for violation of the Eighth Amendment.

On June 19, 2014, Defendants filed a motion to strike Plaintiff’s May 29, 2014, request for judicial notice. The motion is suitable for decision without an opposition. Local Rule 230(1).

**DISCUSSION**

Defendants move to strike Plaintiff’s May 29, 2014, request for judicial notice pursuant to Federal Rule of Civil Procedure 12(f), which authorizes courts to strike “from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.”

1 Defendants' reliance on Federal Rule of Civil Procedure 12(f) is misplaced. The request for  
2 judicial notice is not a pleading. Fed. R. Civ. P. 7(a), 12(f); Sidney-Vinsein v. A.H. Robins Co., 697  
3 F.2d 880, 885-86 (9th Cir. 1983). Notwithstanding that deficiency, "[m]otions to strike are disfavored  
4 and infrequently granted," Neveu v. City of Fresno, 392 F.Supp.2d 1159, 1170 (E.D. Cal. 2005), and  
5 moving for relief which is markedly disproportional to the offense committed, as here, results in an  
6 unnecessary drain on the Court's resources.

7 In this instance, it appears that the May 29, 2014, request for judicial notice is connected to  
8 Plaintiff's motion to appoint counsel, filed on the same day. However, even if the documents are not  
9 connected, the Court is capable of determining the relevancy of the documents and/or evidence  
10 submitted, and the filing of the request by a pro se litigant does not justify striking the document in its  
11 entirety.

12 Accordingly, Defendants' motion to strike is DENIED.

13  
14 IT IS SO ORDERED.

15 Dated: July 24, 2014

/s/ Dennis L. Beck  
16 UNITED STATES MAGISTRATE JUDGE