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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 TIANTE DION SCOTT,

12 Plaintiff,

13 vs.

14 BEREGOVSKAYA, et al.,

15 Defendants.
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1:17-cv-01146-NONE-GSA-PC

**ORDER STRIKING IMPERMISSIBLE
SURREPLY
(ECF No. 63.)**

18 **I. BACKGROUND**

19 Tianté Dion Scott (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis*
20 with this civil rights action pursuant to 42 U.S.C. § 1983. This case now proceeds with Plaintiff’s
21 Third Amended Complaint, filed on November 19, 2019, against defendants Olga Beregovskaya
22 (MD), David Gines (MD), C. Agbasi (LVN), and A. Armendarez (RN) (“Defendants”) for
23 inadequate medical care in violation of the Eighth Amendment. (ECF No. 25.)¹

24 On August 9, 2021, Defendants filed a motion for summary judgment. (ECF No. 56.)
25 On September 15, 2021, Plaintiff filed an opposition to the motion. (ECF No. 60.) On September
26 22, 2021, Defendants filed a reply to Plaintiff’s opposition. (ECF No. 62.)
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28 ¹ On August 11, 2020, the Ninth Circuit remanded this case to proceed on Plaintiff’s medical
indifference claim. (ECF No. 39.)

1 On October 5, 2021, Plaintiff filed a second opposition to Defendants' motion. (ECF No.
2 63.) The court construes Plaintiff's second opposition as an impermissible surreply.

3 **II. SURREPLY**

4 A surreply, or sur-reply, is an additional reply to a motion filed after the motion has
5 already been fully briefed. USLegal.com, <http://definitions.uslegal.com/s/sur-reply/> (last visited
6 March 1, 2021). The Local Rules provide for a motion, an opposition, and a reply. Neither the
7 Local Rules nor the Federal Rules provide the right to file a surreply. A district court may allow
8 a surreply to be filed, but only "where a valid reason for such additional briefing exists, such as
9 where the movant raises new arguments in its reply brief." Hill v. England, 2005 WL 3031136,
10 *1 (E.D.Cal. Nov. 8, 2005).

11 Plaintiff's second opposition to Defendants' motion is a surreply because it was filed on
12 October 5, 2021, after Defendants' motion was fully briefed. The motion for summary judgment
13 was fully briefed and submitted on the record under Local Rule 230(l) on September 22, 2021,
14 when Defendants filed a reply to Plaintiff's first opposition. (ECF No. 62.) In this case, the court
15 neither requested a surreply nor granted a request on the behalf of Plaintiff to file a surreply.
16 Plaintiff has not shown good cause for the court to allow him to file a surreply at this juncture.
17 Therefore, Plaintiff's surreply shall be stricken from the record.²

18 **III. CONCLUSION**

19 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's surreply, filed on
20 October 5, 2021, is STRICKEN from the court's record.

21 IT IS SO ORDERED.

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23 Dated: October 6, 2021

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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28 ² A document which is 'stricken' will not be considered by the Court for any purpose."
(Informational Order, ECF No. 8 at 2 ¶ II.A.)