



1 Plaintiff's filing is not entirely clear. However, to the extent plaintiff is attempting to file  
2 a reply to defendants' answer, such effort is unavailing. Rule 7(a) of the Federal Rules of Civil  
3 Procedure provides:

4 (a) Pleadings. Only these pleadings are allowed:

5 (1) a complaint;

6 (2) an answer to a complaint;

7 . . .

8 (7) if the court orders one, a reply to an answer.

9 Fed. R. Civ. P. 7(a) (emphasis added). The court has not ordered plaintiff to reply to defendants'  
10 answer and declines to make such an order.

11 To the extent plaintiff attempts to strike defendants' answer, such attempt is similarly  
12 unavailing. Under Federal Rule of Civil Procedure 12(f), the Court may strike "an insufficient  
13 defense or any redundant, immaterial, impertinent or scandalous" matter from the pleadings. Id.;  
14 Whittlestone, Inc. v. Handi-Craft Co., 618 F.3d 970, 973 (9th Cir. 2010) (same) (citation  
15 omitted). Motions to strike are disfavored, "because of the limited importance of pleading in  
16 federal practice, and because they are often used as a delaying tactic." Neilson v. Union Bank of  
17 Cal., N.A., 290 F. Supp. 2d 1101, 1152 (C.D. Cal. 2003).

18 Here, plaintiff fails to demonstrate that the court should strike the answer. Plaintiff does  
19 not allege that the answer is redundant, immaterial, impertinent, or scandalous. In any event, the  
20 court finds that the answer does not meet such criteria. Moreover, the Pliscou case, upon which  
21 plaintiff relies, did not address a motion to strike an answer or affirmative defenses. Id., 411 F.  
22 Supp. at 842. Rather, in Pliscou, the court addressed a high school student's request for a  
23 preliminary injunction enjoining the school district from interfering with the publication of an  
24 official student newspaper. Id. Nothing in Pliscou supports a request to strike an answer under  
25 Rule 12(f). In his objection, plaintiff mentions a motion to dismiss, but no motion to dismiss has  
26 been filed in this action. Plaintiff's complaint was not dismissed for failure to state a claim;  
27 rather, defendants have filed an answer, and the court has issued its discovery and scheduling  
28 order. If dispositive motions are addressed in plaintiff's favor, the case will be set for trial.


1 Finally, as argued by defendants, plaintiff fails to provide support for his requested relief. Thus,  
2 to the extent plaintiff requests the court strike defendants' answer, such request should be denied.

3 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to assign  
4 a district judge to this case; and

5 IT IS RECOMMENDED that plaintiff's request to strike defendants' answer (ECF No.  
6 36) be denied.

7 These findings and recommendations are submitted to the United States District Judge  
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
9 after being served with these findings and recommendations, any party may file written  
10 objections with the court and serve a copy on all parties. Such a document should be captioned  
11 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
12 objections shall be filed and served within fourteen days after service of the objections. The  
13 parties are advised that failure to file objections within the specified time may waive the right to  
14 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 Dated: June 7, 2017

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KENDALL J. NEWMAN  
18 UNITED STATES MAGISTRATE JUDGE

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