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United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Stuart K. Bragg,

NO. C 08-03192 JW

Plaintiff,

**ORDER STRIKING PLAINTIFF'S
DOCUMENT ENTITLED "AMEND TO
CASE" FROM THE DOCKET**

v.

The San Jose Mercury News, et al.,

Defendants.

On November 17, 2008, the Plaintiff filed a document with the Court titled "Amend to Case No. C 08-03192 JW." (See Docket Item No. 10.) The Court construes the roughly seventy-page filing as an Amended Complaint intended to remedy the defects of Plaintiff's previously dismissed Complaint.

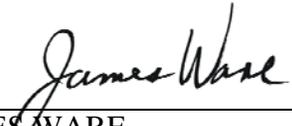
On October 30, 2008, the Court adopted Magistrate Judge Lloyd's Recommendation that Plaintiff's Complaint be Dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(i). (See Docket Item Nos. 4, 8.) The Court dismissed Plaintiff's Complaint without leave to amend. (See Docket Item Nos. 8.) The Court also entered Judgment in favor of the Defendants and ordered the Clerk of Court to close this case's file. (See Docket Item No. 9.)

Pursuant to the Court's October 30, 2008 Order, Plaintiff was denied leave to amend his original Complaint. Thus, Plaintiff's filing of an Amended Complaint is improper. Further, if Plaintiff seeks to proceed with any viable claims he may have, he must first seek to set aside the October 30, 2008 Judgment under Fed. R. Civ. P. 60.

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Accordingly, Plaintiff's November 17, 2008 Amended Complaint is ordered STRICKEN
from the docket.

Dated: November 25, 2008



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Stuart Bragg
3 1051 Cayuga Street
4 Santa Cruz, CA 95060

5 **Dated: November 25, 2008**

Richard W. Wieking, Clerk

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7 **By: /s/ JW Chambers**
8 **Elizabeth Garcia**
9 **Courtroom Deputy**

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