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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DONALD E. MITCHELL, JR.,  
Plaintiff(s),  
vs.  
NEVADA DEPARTMENT OF  
CORRECTIONS, et al.,  
Defendant(s).

Case No. 2:16-cv-00037-RFB-NJK  
**ORDER**  
(Docket No. 57, 59)

Pending before the Court is Plaintiff’s motion for judicial notice. Docket No. 57. Defendants filed a response in opposition, as well as a motion to strike. Docket No. 59. No reply was filed.


Plaintiff’s motion seeks judicial notice of a settlement discussion with Defendants’ counsel and of alleged retaliatory conduct within the prison thereafter. *See* Docket No. 57. These are not facts pertinent to any matter pending before this Court in this case, nor are the facts “not subject to reasonable dispute.” *See, e.g., Trigueros v. Adams*, 658 F.3d 983, 987 (9th Cir. 2011) (quoting Fed. R. Evid. 201). Accordingly, the motion for judicial notice is **DENIED**.

Defendants’ motion seeks to strike Plaintiff’s motion. *See* Docket No. 59. The Court has authority to strike an improper filing under its inherent power to control its docket. *E.g., Ready Transp., Inc. v. AAR Mfg., Inc.*, 627 F.3d 402, 404 (9th Cir. 2010). “Motions to strike under the inherent power . . . are wholly discretionary.” *Jones v. Skolnik*, 2015 WL 685228, at \*2 (D. Nev. Feb. 18, 2015). In deciding whether to exercise that discretion, courts consider whether striking the filing would “further the overall resolution of the action,” and whether the filer has a history of excessive and repetitive filing

1 that have complicated proceedings. *Id.* “Courts have expressed reluctance at striking material without  
2 some showing of prejudice to the moving party.” *Benson v. Nevada*, 2017 U.S. Dist. Lexis 52095, at  
3 \*2 (D. Nev. Apr. 4, 2017) (citing *Roadhouse v. Las Vegas Metro. Police Dept.*, 290 F.R.D. 535, 543 (D.  
4 Nev. 2013)). Although Defendants contend that Plaintiff’s motion for judicial notice includes facts that  
5 they find to be “outrageous and scandalous,” Docket No. 59 at 5, they fail to explain how striking the  
6 document would advance the overall resolution of this action or how they are prejudiced by not striking  
7 the document. Accordingly, the motion to strike is **DENIED**.

8 IT IS SO ORDERED.

9 DATED: October 20, 2017

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12 NANCY J. KOPPE  
13 United States Magistrate Judge  
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