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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

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9 Success Is Yours, Inc., a Florida corporation; ) No. CV10-0758-PHX DGC  
10 Charles Highers, an individual; )  
11 Lynn A. Hughes, an individual, )  
12 Plaintiffs, ) **ORDER**

13 vs. )

14 LifeSuccess Publishing, LLC, a Nevada )  
15 limited liability company; )  
16 Bob Proctor, an individual, )  
17 Defendants. )

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19 Plaintiffs move to strike Defendant LifeSuccess Publishing, LLC’s affirmative  
20 defenses 1-16, 20-23, 25-28, 30, 32, and 35-45. Doc. 20. Defendant opposes the motion  
21 only with respect to defenses 1, 6, and 38, but asks that any striking of the other defenses be  
22 without prejudice. Doc. 27. Defendant also moves to amend its answer to plead defenses  
23 more specifically. *Id.* Plaintiffs did not file a reply to Defendant’s response nor responded  
24 to Defendant’s motion to amend. The motions are fully briefed.

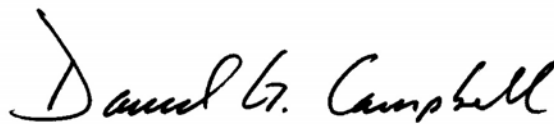
25 Defenses 1 and 6 are bare assertions that Plaintiffs have failed to state a claim, while  
26 defense 38 asserts that “Plaintiffs’ breach of contract claims are barred by a failure of  
27 conditions precedent.” Doc. 17 at 4, 5, 8. Each defense must be pled in such a way that the  
28 opposing party has fair notice of the defense. *Wyshak v. City Nat’l Bank*, 607 F.2d 824, 827

1 (9th Cir. 1979). Defenses 1, 6, and 38 fail to meet this standard, and will be stricken without  
2 prejudice. With regard to the rest of the defenses challenged, there being no objection, the  
3 Court will strike them without prejudice. Defendant is granted leave to amend its answer and  
4 plead defenses such that they give Plaintiffs fair notice. *Wyshak*, 607 F.2d at 826.

5 **IT IS ORDERED:**

- 6 1. Plaintiffs' motion to strike certain affirmative defenses (Doc. 20) is **granted**;
- 7 2. Defendant's motion for leave to amend its answer to re-plead affirmative  
8 defenses (Doc. 27) is **granted**. Defendant shall file an amended answer on or  
9 before **October 22, 2010**.

10 DATED this 13th day of October, 2010.

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14 David G. Campbell  
15 United States District Judge  
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