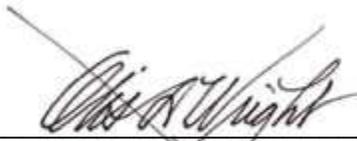


1 Plaintiff and Counterdefendant Desert Regional Medical Center, Inc. (“Desert
2 Regional”) served Defendant and Counterclaimant Global Excel Management, Inc.
3 (“Global Excel”) with a Federal Rule of Civil Procedure 12(b)(6) motion to dismiss in
4 this case on May 9, 2017. (ECF No. 35.) Global Excel filed a first amended
5 counterclaim on May 22, 2017, thirteen days later. (ECF No. 38.) Rule 15(a)(1)
6 allows a plaintiff (or, here, counterclaimant) to file an amended complaint (or
7 counterclaim) once as a matter of course within twenty-one days of service with a
8 Rule 12(b) motion. Therefore, Global Excel’s amended counterclaim was proper. As
9 the pending motion to dismiss was based on a counterclaim that is no longer
10 operative, the motion is **DENIED** as **MOOT**. *See Ramirez v. Cty. of San Bernardino*,
11 806 F.3d 1002, 1008 (9th Cir. 2015).

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13 **IT IS SO ORDERED.**

14 May 25, 2017

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17 **OTIS D. WRIGHT, II**
18 **UNITED STATES DISTRICT JUDGE**
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