

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

SID LANDAU,

Plaintiff,

v.

W. T. VOSS, et al.,

Defendants.

CASE NO. 1:07-cv-00815-AWI-DLB (PC)

ORDER GRANTING PLAINTIFF'S MOTION  
TO STRIKE DEFENDANTS' AFFIRMATIVE  
DEFENSES BASED SOLELY ON  
CALIFORNIA STATE LAW

(Doc. 35)

Plaintiff Sid Landau ("Plaintiff") is a civil detainee proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff's complaint, filed on June 4, 2007, against Defendants James Forrest, Leo Adcock, W. T. Voss, Erica Weinstein, Peter Bresler, Roberto Morisho, Mohinder Kaur, Wendy Allen, and September Winchel. (Doc. 1.) On April 29, 2009, Plaintiff filed a motion to strike all of Defendants' affirmative defenses based solely on California law. (Doc. 35.) As of the date of the filing of Plaintiff's motion, only Defendants September Winchell, Leo Adcock, James Forrest, Peter Bresler, and Mohinder Kaur had filed an answer to Plaintiff's complaint. (Docs. 19, 26, 32.)

On April 30, 2009, Defendants September Winchell, Leo Adcock, James Forrest, Peter Bresler, and Mohinder Kaur filed a statement of non-opposition to Plaintiff's motion to strike. (Doc. 37.) Defendants concede that affirmative defenses 11, 20, 21, 22, 24, 25, the second paragraph of 27, affirmative defenses 31, 32, and all references to the California Department of Corrections and Rehabilitation were inadvertently included and should be stricken.

1 Pursuant to Federal Rule of Civil Procedure 12(f), the Court may strike from a pleading an  
2 insufficient defense or immaterial matter. Accordingly, the Court ORDERS that:

- 3 1) Plaintiff's motion to strike, filed on April 29, 2009, is GRANTED; and  
4 2) Affirmative defenses 11, 20, 21, 22, 24, 25, the second paragraph of 27, affirmative  
5 defenses 31, 32, and all references to the California Department of Corrections and  
6 Rehabilitation are STRICKEN from:  
7 a. the answer filed on August 29, 2008 by defendants James Forrest, Peter  
8 Bresler, and Mohinder Kaur;  
9 b. the answer filed on March 16, 2009 by defendant Leo Adcock; and  
10 c. the answer filed on April 20, 2009 by defendant September Winchell.

11  
12 IT IS SO ORDERED.

13 **Dated: November 17, 2009**

**/s/ Anthony W. Ishii**  
CHIEF UNITED STATES DISTRICT JUDGE