

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

-----oo0oo-----

J & J SPORTS PRODUCTIONS,
INC.,

NO. CIV. 2:12-02899 WBS EFB

Plaintiff,

MEMORANDUM AND ORDER RE:
MOTION TO STRIKE AFFIRMATIVE
DEFENSES

v.

BLANCA E. MARAVILLA,
individually and d/b/a LAS
PALMAS MEXICAN RESTAURANT,

Defendant.

-----oo0oo-----

Plaintiff J & J Sports Productions, Inc., brought suit
against defendant Blanca E. Maravilla asserting claims arising
from defendant's allegedly wrongful interception of a television
program.¹ Currently before the court is plaintiff's motion to
strike defendant's amended affirmative defenses pursuant to

¹ Because oral argument would not be of material
assistance, the court ordered this matter submitted on the briefs
pursuant to Eastern District Local Rule 230(g). (Docket No. 40.)

1 Federal Rule of Civil Procedure 12(f).

2 The court granted plaintiff's first motion to strike
3 defendant's affirmative defenses as to defendant's first, second,
4 third, fourth, and eighth defenses. (May 21, 2013 Order at 6
5 (Docket No. 29).) It granted defendant leave to amend the third
6 defense and gave her fourteen days to file an amended answer
7 consistent with the May 21, 2013 Order. (Id.) It denied the
8 motion as to defendant's fifth, sixth, and seventh defenses.
9 (Id.)

10 On June 3, 2013, defendant filed an amendment to her
11 answer. (Docket No. 30.) She amended her fifth and seventh
12 affirmative defenses and withdrew her sixth affirmative defense.
13 (Id.) She did not seek to amend the third affirmative defense.
14 These amendments are inconsistent with the court's May 21, 2013
15 Order. As the court did not strike plaintiff's fifth, sixth, or
16 seventh defense, it did not offer plaintiff a chance to amend
17 those defenses. It only granted defendant leave to amend her
18 third affirmative defense.

19 Federal Rule of Civil Procedure 15 provides that a
20 party may amend its pleading once within twenty-one days after
21 serving it and in all cases may amend only with the opposing
22 party's consent or the court's leave. Fed. R. Civ. P. 15(a).
23 Defendant did not request plaintiff's consent or leave of the
24 court to file the amendment. Thus, because defendant's
25 amendments went beyond the scope allowed by the court's May 21,
26 2013 Order and are otherwise not allowed under Rule 15, they must
27 be stricken. (See also June 18, 2013 Order at 2 (providing that
28 after June 24, 2013 no further amendments to pleadings will be

1 permitted except with leave of the court) (Docket No. 33).)

2 IT IS THEREFORE ORDERED that plaintiff's motion to
3 strike defendant's amended affirmative defenses be, and the same
4 hereby is, GRANTED without prejudice to defendant's filing a
5 noticed motion for leave to amend.

6 DATED: July 24, 2013

7 

8 WILLIAM B. SHUBB
9 UNITED STATES DISTRICT JUDGE

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28