1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 MISTY DAWN REITZ and NICHOLAS No. 2:14-CV-01614-GEB-EFB IVEY, 12 Plaintiffs, 1.3 ORDER GRANTING DEFENDANT'S MOTION TO STRIKE PLAINTIFFS' v. 14 UNAUTHORIZED FIRST AMENDED PROGRESSIVE DIRECT INSURANCE COMPLAINT AND DENYING 15 COMPANY, an Ohio Corporation DEFENDANT'S DISMISSAL MOTION registered to do business in 16 the State of California and DOES 1 through 100, 17 inclusive, 18 Defendants. 19 20 Defendant Progressive Choice Insurance Company moves 2.1

for an order striking Plaintiffs' First Amended Complaint ("FAC") and for an order dismissing this lawsuit with prejudice. (ECF No. 9.) Defendant argues the FAC should be stricken because Plaintiffs lacked authority to amend the contract-based claim

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Since Defendant argues in the motion that it is erroneously sued as "Progressive Direct Insurance Company," they are referred to here as "Progressive Choice Insurance Company," which Defendant argues is its proper name.

that they amended in the FAC. Defendant seeks dismissal of Plaintiffs' lawsuit as a sanction for filing the unauthorized FAC.

Plaintiffs have not shown they were authorized to file the FAC; therefore, the FAC is stricken. However, Defendant has not demonstrated that Plaintiff's lawsuit should be dismissed. Hence, the dismissal motion is denied.

Dated: February 6, 2015

GARLAND E. BURRELL, JR.

Senior United States District Judge