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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY CHRISANTHIS,

No. C 08-02472 WHA

Plaintiff,

v.

**ORDER RE DEFENDANTS'
RESPONSE AND REQUEST TO
STRIKE THE FIRST AMENDED
COMPLAINT**

DR. BRIAN CASON, IRVING SPIVEY,
and DOES 1 to 10,

Defendants.

On August 4, 2008, defendants filed a "Motion to Dismiss or, in the Alternative, for Summary Judgment." On August 28, 2008, upon request by plaintiff, the Court granted plaintiff an extension of the deadline to file its opposition to September 2, 2008, and reset the hearing for September 18, 2008. On September 2, instead of filing an opposition, plaintiff filed a First Amended Complaint, which it was entitled to do as a matter of course. Rule 15(a)(1)(A).

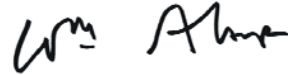
The Court ordered defendants to updated the Court regarding how it would proceed with its pending motion to dismiss and the need for the hearing on that motion scheduled for September 18, 2008. (Dkt. No. 31). In response, defendants requested the Court to consider its pending motion as submitted, grant the motion, vacate the September 18 hearing, and strike plaintiff's first amended complaint pursuant to Rules 8(e) and 12(f).

The Court denies defendants' request to strike the first amended complaint, because that complaint is not redundant, immaterial, impertinent, or scandalous. The Court hereby **vacates** the September 18, 2008 hearing on defendants' pending motion to dismiss because the motion

1 is moot. Defendants shall have until **September 26, 2008**, to amend and re-notice their motion
2 to dismiss to take into account the new pleading. Plaintiff's opposition shall be due **October 3,**
3 **2008**. Defendants' reply shall be due **October 10, 2008**. A hearing on the matter will be held
4 on **October 23, 2008**. **Plaintiffs may not further amend their pleading without express**
5 **leave from the Court**. The parties are further advised that the Court intends enforce the
6 deadlines set forth in this order absent good cause, given the already protracted proceedings on
7 this matter.

8
9 **IT IS SO ORDERED.**

10
11 Dated: September 12, 2008



12 **WILLIAM ALSUP**
13 **UNITED STATES DISTRICT JUDGE**