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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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9 VINCE R. FLORES,  
10 Plaintiff,  
11 v.  
12 LEGAL RECOVERY LAW  
13 OFFICES, INC., and  
14 MARK D. WALSH,  
15 Defendants.

NO. C10-0993 TEH

ORDER DENYING  
PLAINTIFF'S MOTION TO  
STRIKE AFFIRMATIVE  
DEFENSES16  
17 This matter comes before the Court on Plaintiff Vince R. Flores's motion to strike  
18 affirmative defenses from the answers filed by Defendants Legal Recovery Law Offices, Inc.  
19 and Mark D. Walsh on September 30, 2010. Plaintiff filed his motion to strike on October 1,  
20 2010, and noticed the motion for hearing on November 8, 2010. Defendants failed to file a  
21 timely opposition or statement of non-opposition by the October 18, 2010 deadline. *See Civ.*  
22 *L.R. 7-3* (opposition or statement of opposition must be filed "not less than 21 days before  
23 the hearing date"). On October 19, 2010, Defendants filed amended answers, along with a  
24 late opposition brief asking the Court to deny Plaintiff's motion as moot.25 Plaintiff correctly observes that Defendants' opposition was untimely, leaving this  
26 Court the discretion not to consider it. However, Defendants' amended answers were timely  
27 filed under Federal Rule of Civil Procedure 15(a)(1)(A), which allows a party to "amend its  
28 pleading once as a matter of course" within "21 days after serving it." The Court therefore

1 agrees that Plaintiff's motion to strike affirmative defenses from Defendants' original  
2 answers is now moot. Accordingly, with good cause appearing, the November 8, 2010  
3 motion hearing is VACATED, and Plaintiff's motion is hereby DENIED.

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5 **IT IS SO ORDERED.**

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7 Dated: 11/01/10

  
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THELTON E. HENDERSON, JUDGE  
UNITED STATES DISTRICT COURT

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