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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

J&J SPORTS PRODUCTIONS, INC.,

Plaintiff(s),

No. C 10-1250 PJH

v.

ORDER GRANTING MOTION TO STRIKE

GENARO MATA CAMPOS, et al.,

Defendant(s).

Before the court is the motion of plaintiff to strike the five affirmative defenses asserted by defendants in their answer. The motion is fully briefed and the court has reviewed all of the papers filed by the parties and determines that no hearing is necessary. Accordingly, the January 5, 2011 hearing date is VACATED and the court rules as follows.

Federal Rule of Civil Procedure 12(f) provides that the court “may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f). The function of a 12(f) motion to strike is to avoid the expenditure of time and money that must arise from litigating spurious issues by dispensing with those issues prior to trial....” Whittlestone, Inc. v. Handi-Craft Co., 618 F.3d 970, 973 (9th Cir. 2010) (quotation and citation omitted). In order to determine whether to grant a motion to strike under Rule 12(f), the court must determine whether the matter the moving party seeks to have stricken is (1) an insufficient defense; (2) redundant; (3) immaterial; (4) impertinent; or (5) scandalous. Id. at 973-74.

Plaintiff moves on the basis that all affirmative defenses are insufficient in that they do not really amount to affirmative defenses, but are more akin to general denials of liability. Defendants oppose the motion with respect to only their second affirmative

1 defense and the court construes the absence of opposition to the other four as an
2 acknowledgment of their deficiencies. With regard to the second affirmative defense, the
3 court agrees with plaintiff, that it is not really an affirmative defense at all. For the reasons
4 advanced by plaintiff, the court GRANTS the motion to strike all five affirmative defenses as
5 insufficient.

6 **IT IS SO ORDERED.**

7 Dated: December 23, 2010



8 PHYLLIS J. HAMILTON
9 United States District Judge

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