

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

J &amp; J SPORTS PRODUCTIONS, INC.,

Plaintiff,

No. C 11-1162 PJH

v.

**ORDER GRANTING MOTION  
TO DISMISS AND GRANTING MOTION  
TO STRIKE IN PART**

CATARINO VALLE, et al.,

Defendants.

Third party defendant's motion to dismiss, and plaintiff's motion to strike affirmative defenses, came on for hearing before this court on November 30, 2011. Plaintiff, J&J Sports Productions ("J&J" or "plaintiff"), appeared through its counsel, Thomas Hesketh. Defendants Catarino and Maria de Jesus Valle's ("Valles") and Tacos El Camino ("restaurant")(collectively "defendants") appeared through their counsel, Steven Pisano. Third party defendant Dish Network ("Dish") appeared through its counsel, Jennifer Capabianco. Having read the parties' papers and carefully considered their arguments and the relevant legal authority, and good cause appearing, the court hereby GRANTS Dish's motion to dismiss, and GRANTS in part and DENIES in part plaintiff's motion to strike, for the reasons stated at the hearing, and summarized as follows.

1. Dish's motion to dismiss defendants' third party impleader complaint is GRANTED. Leave to amend is also granted, however, so that defendants may attempt to successfully clarify and allege the existence of an agency relationship, such that a claim against third party defendant(s) is legally viable.

1           2.       Plaintiff's motion to strike the affirmative defenses stated in defendants'  
2 second amended answer is GRANTED, with respect to defendants' first affirmative defense  
3 alleging failure to state a claim, and DENIED with respect to all remaining affirmative  
4 defenses.

5           Defendants' amended third party complaint shall be due no later than December 28,  
6 2011.

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8 **IT IS SO ORDERED.**

9 Dated: December 5, 2011



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PHYLLIS J. HAMILTON  
United States District Judge