

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JOE HAND PROMOTIONS, INC.,)	Case No.: 11-CV-0506-LHK
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S
v.)	MOTION TO STRIKE AS MOOT
)	
NGOC HA T. NGUYEN, individually and d/b/a)	
VI SAO CAFÉ, a/k/a SAO RESTAURANT,)	
)	
Defendants.)	

Plaintiff Joe Hand Promotions, Inc., filed its Complaint on February 2, 2011, to which Defendant Ngoc Ha T. Nguyen filed a one-sentence Answer Presenting Defenses Under Rule 12(b) on March 22, 2011. *See* ECF No. 1 and 5. The Court granted Plaintiff’s Motion to Strike Answer with leave to amend on July 19, 2011. *See* ECF No. 13.

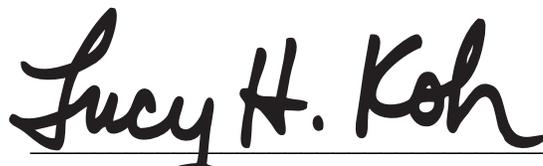
Defendant filed a First Amended Answer to Complaint on August 16, 2011, which included sixteen affirmative defenses: (1) failure to state a cause of action; (2) lack of subject matter jurisdiction; (3) lack of standing; (4) statute of limitations, doctrine of laches; (5) failure to mitigate; (6) waiver; (7) entrapment by estoppel; (8) comparative fault; (9) estoppel; (10) intervening acts; (11) alleged actions were not intentional; (12) lack of proximate cause; (13) undue hardship; (14) undue penalty; (15) unclean hands; (16) unjust enrichment. *See* ECF No. 18. On September 2, 2011, Plaintiff filed a Notice of Motion and Motion to Strike Defendant’s Affirmative Defenses with a Memorandum of Points and Authorities seeking to strike each of

1 Plaintiff's sixteen affirmative defenses for failure to satisfy the legal standard necessary to sustain
2 any of these affirmative defenses. *See* ECF No. 20. However, on October 13, 2011, the Court
3 appointed pro bono counsel for Defendant, Attorney Sayuri K. Sharper, who then, with permission
4 of Plaintiff, filed Defendant's Second Amended Answer to Plaintiff's Complaint. *See* ECF No. 34
5 and 35. Defendant's Second Amended Answer to Plaintiff's Complaint contains only three
6 affirmative defenses: (1) lack of knowledge; (2) improper double recovery; and (3) cumulative
7 damages. *See* ECF No. 35. Since none of these affirmative defenses are addressed in Plaintiff's
8 Motion to Strike, Plaintiff's Motion is mooted by Defendant's Second Amended Answer.

9 Therefore, the Court DENIES Plaintiff's motion as moot. Accordingly, the hearing on the
10 motion set for December 1, 2011, is hereby VACATED.

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12 **IT IS SO ORDERED.**

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14 Dated: November 22, 2011

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LUCY H. KOH
United States District Judge