

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CORAZON GAERLAN REYES,)	Case No.: 5:12-CV-05811-EJD
Plaintiff,)	ORDER DENYING AS MOOT PLAINTIFF’S MOTION TO STRIKE
v.)	
CREDIGY RECEIVABLES, INC., ET AL.,)	
Defendants.)	[Re: Docket No. 26]

Presently before the court in this debt collection action is Plaintiff Corazon Gaerlan Reyes’ (“Plaintiff”) Motion to Strike Affirmative Defenses in Credigy Receivables, Inc. and Credigy Services Corp.’s (collectively, “Credigy”) Answer. Dkt. No. 26. For the following reasons, the court DENIES Plaintiff’s motion as MOOT.

Plaintiff filed this action against Defendants Credigy, Phoenix Law Group Corp., Red Hill Law Group, P.C., Jay Michael Tenenbaum, Ian Nathan Willens, Ronald R. Roundy, and Michael Charles Brkich on November 13, 2012, raising claims under the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* and California’s Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §§ 1788-1788.33, as well as claims for malicious prosecution and punitive damages. Dkt No. 1. Credigy filed an Answer to the Complaint on December 10, 2012 (Dkt. No. 22) and the remaining defendants filed their respective answers in early January (Dkt. Nos. 27 and

1 28). Plaintiff moved to strike the affirmative defenses in both Credigy and Red Hill Law Group's
2 Answers (Dkt. Nos. 26 and 31) and the court took the matter under submission on March 18, 2013
3 (Dkt. No. 59).

4 While these motions to strike have been pending, the parties agreed to dismiss Red Hill
5 Law Group from this case with prejudice (Dkt. No. 67) and Plaintiff filed a First Amended
6 Complaint ("FAC") (Dkt. No. 74). The FAC removes Red Hill Law Group but adds Gryphon
7 Solutions, LLC and The Brikich Gabriel Group as named defendants. See Dkt. No. 74. This FAC
8 "supersedes the original, the latter being treated thereafter as non-existent." Lacey v. Maricopa
9 Cty., 693 F.3d 896, 925 (9th Cir. 2012) (citations omitted). As such, Defendants' respective
10 Answers to the original Complaint are moot, as are any motions pertaining to the original
11 Complaint or any Answers to it. Accordingly, Plaintiff's Motion to Strike (Dkt. No. 26) is
12 DENIED as MOOT. Unless otherwise stipulated, Credigy is required to file an Answer to the FAC
13 within the time period set forth in Federal Rules of Civil Procedure 15(a)(3).

14 **IT IS SO ORDERED**

15 Dated: June 20, 2013

16 
17 _____
18 EDWARD J. DAVILA
19 United States District Judge
20
21
22
23
24
25
26
27
28