

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

DEREK BRANDON PICARD,  
  
Plaintiff,  
  
v.  
  
ABC LEGAL SERVICES, INC., a  
Washington corporation, MARCOS  
ANTONIO TEJADA, individually and in  
his official capacity; and DOES 1 through  
10, inclusive,  
  
Defendants.

Case No. 14-CV-4618

**ORDER DENYING MOTION TO  
STRIKE**

[Re Docket No. 15]

Plaintiff Derek Brandon Picard filed a motion to strike defendants’ answer. Dkt. No. 15 (motion). Instead of filing an opposition, defendants filed an amended answer on the day after the opposition to the motion to strike would have been due. Dkt. No. 17 (amended answer). Following receipt of defendants’ amended answer, plaintiff filed a Statement of No Opposition Received, noting that the amended answer was still defective because it “continues to allege defenses which are not actually defenses, and continues to raise immaterial defenses.” Dkt. No. 18 (statement) (footnotes omitted).

Although defendants’ answer was technically filed late and defendants should have sought leave of court to amend their answer, *see* Federal Rule of Civil Procedure 15(a), the amended answer cures the pleading issues in the original answer. *See Bell Atlantic Corp. v. Twombly*, 550

1 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 566 U.S. 662 (2009). Although the amended answer may  
2 include improper negative defenses, further motion practice over the amended answer is  
3 unnecessary as striking the negative defenses will not preclude the defendants from arguing those  
4 defenses in the case. Because the answer meets the relevant pleading standards, plaintiff has fair  
5 notice of the relevant defenses. Accordingly, the court enters defendants' amended answer, Dkt.  
6 No. 17, and denies the motion to strike as moot, Dkt. No. 15.

7 **SO ORDERED.**

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10 Dated: January 5, 2015



Ronald M. Whyte  
United States District Judge

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