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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JOUBIN MORTEZAPOUR AND SEYED
RAZAVI, Individually and on Behalf of
All Others Similarly Situated,

Plaintiffs,

v.

DIRECTV, INC. AND DIRECTV
HOLDINGS LLC,

Defendants.

Civil No. 10cv2158 L(RBB)

**ORDER STRIKING FIRST
AMENDED COMPLAINT [doc. #10]**

Plaintiffs filed this action on October 15, 2010. To which defendants filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) on December 22, 2010. Under the Civil Local Rules, plaintiffs were required to file their opposition to defendants’ motion by January 24, 2011. Instead of filing a response to defendants’ motion on January 24, 2011, plaintiffs filed a first amended complaint.¹

Federal Rule of Civil Procedure 15(a)(1)(B) allows a party to “amend its pleading once as a matter of course within: . . . (B) . . . 21 days after service of a motion under Rule 12(b), (e), or

¹ The Court notes plaintiffs failed to provide a certificate of service with their first amended complaint in violation of the Electronic Case Filing Administrative Policies and Procedures Manual §2(d)(2). Counsel is advised that any further failure to comply with the Local Rules or Electronic Case Filing Administrative Policies and Procedures Manual may lead to penalties under Civil Local Rule 83.1.

1 (f), whichever is earlier. FED. R. CIV. P. 15(a)(1)(B). After the time has expired, “a party may
2 amend its pleading only with the opposing party’s written consent or the court’s leave.” FED. R.
3 Civ. P. 15(a)(2).

4 As noted above, defendants filed their motion on December 22, 2010. Plaintiffs were
5 entitled to file a first amended complaint as a matter of course by January 12, 2011. They did
6 not do so, instead waiting until January 24, 2011 to do so. Accordingly, plaintiffs’ first amended
7 complaint is untimely.

8 Based on the foregoing, plaintiffs’ first amended complaint is **STRICKEN** from the
9 record.

10 **IT IS SO ORDERED.**

11 DATED: January 26, 2011

12 
13 M. James Lorenz
United States District Court Judge

14 COPY TO:

15 HON. RUBEN B. BROOKS
16 UNITED STATES MAGISTRATE JUDGE

17 ALL PARTIES/COUNSEL
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