

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ERIKA VILLA,

Plaintiff,

V.

GENESIS CREDIT MANAGEMENT,
LLC,

Defendant.

C17-872 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Plaintiff's unopposed Motion to Strike Affirmative Defenses, docket no. 5, is GRANTED as follows. The Federal Rules of Civil Procedure permit a court to "strike from a pleading an insufficient defense." Fed. R. Civ. P. 12(f). "The key to determining the sufficiency of pleading an affirmative defense is whether it gives plaintiff fair notice of the defense." *Simmons v. Navajo County, Ariz.*, 609 F.3d 1011, 1023 (9th Cir. 2010) (quoting *Wyshak v. City Nat'l Bank*, 607 F.2d 824, 827 (9th Cir. 1979)). Here, defendant's Answer simply lists potential defenses to unlawful debt-collection efforts without any factual support or specificity. For example, defendant pleads that "some or all of plaintiff's claims are barred by the statute of limitations" and that "any collection activity, may be subject to a *bona fide* error defense," but fails to indicate which claims are allegedly time-barred or identify the alleged *bona fide* error. Answer, docket no. 4 at 8-9. Such vague and conclusory allegations of affirmative defenses fail to give plaintiff the fair notice required by federal law. *See Dawson v. Genesis Credit Mangement, LLC*, 2017 WL 2800180, at *1 (W.D. Wash. June 26, 2017). For the foregoing reasons, and in light of defendant's failure to oppose this motion, each of defendant's affirmative defenses is STRICKEN.

(2) In the absence of prejudice to the opposing party, leave to amend affirmative defenses should be freely given. *Wyshak*, 607 F.2d at 826. The Court finds that leave to amend would not prejudice plaintiff at this early stage of the litigation. Defendant may therefore amend its affirmative defenses within fourteen (14) days of the date of this Minute Order.

(3) The Clerk is directed to send a copy of this Minute Order to all counsel of record.

Dated this 14th day of August, 2017.

William M. McCool
Clerk

s/Karen Dews
Deputy Clerk