

1 **I. PROCEDURAL HISTORY**

2 On July 24, 2012, Plaintiffs filed a class action complaint against Defendants. Dkt.

3 1.

4 On September 19, 2012, the Ward Defendants filed a motion to dismiss. Dkt. 31.

5 On September 24, 2012, 2012, the Meracord Defendants filed a motion to dismiss. Dkt.

6 34.

7 On October 9, 2012, the Court issued a stipulated order extending the deadline for
8 an amended complaint to October, 29, 2012, (Dkt. 39), and Plaintiffs timely filed an
9 amended complaint. Dkt. 41.

10 **II. DISCUSSION**

11 Plaintiffs may file an amended pleading once as a matter of course 21 days after a
12 responsive pleading. Fed. R. Civ. P. 15(a)(1)(B). Plaintiffs met the Court's extension of
13 that deadline. The Ward Defendants, however, contend that no possible amendment
14 could cure the deficiencies in Plaintiffs' complaint. Dkt. 40. The Court would rather
15 render a decision on the basis that allowed amendments *did* not cure potential
16 deficiencies in the complaint. The Meracord Defendants argue that their original
17 arguments apply with equal force to the amended complaint. Dkt. 46 at 7. Due process
18 requires that Plaintiffs have an opportunity to address this argument. Therefore, the
19 Court strikes both motions to dismiss.

1 **III. ORDER**

2 Therefore, it is hereby **ORDERED** that the Clerk is directed to strike both motions
3 to dismiss (Dkts. 31 & 34).

4 Dated this 13th day of November, 2012.

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7 BENJAMIN H. SETTLE
United States District Judge

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