

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADAFederal Trade Commission, et al.,
Plaintiffs

v.

International Markets Live, Inc. et al.,
Defendants

Case No. 2:25-cv-00760-CDS-DJA

**Order Granting in Part the
Plaintiffs' Motion to Strike**

[ECF No. 90]

This is an enforcement action brought by plaintiffs, the Federal Trade Commission and the State of Nevada, against defendants International Markets Live, Inc., IM Mastery Academy Ltd., Assiduous, Inc., Global Dynasty Network, LLC, Christopher and Isis Terry (“the Terrys”), and others, from operating alleged unlawful investment training and business schemes. *See* Compl., ECF No. 1. The plaintiffs filed a motion to strike affirmative defenses alleged by the defendants. Mot. to strike, ECF No. 90. This motion is fully briefed. Opp’n, ECF No. 102; Reply, ECF No. 110. For the reasons set forth herein, the plaintiffs’ motion is granted in part.

I. Discussion

Rule 12(f) permits the court to strike “an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f). “[M]otions to strike are highly disfavored, *e.g.*, *Petrie v. Elec. Game Card, Inc.*, 761 F.3d 959, 965 (9th Cir. 2014), rarely granted, *e.g.*, *Stanbury Law Firm v. I.R.S.*, 221 F.3d 1059, 1063 (8th Cir. 2000), and viewed as ‘time-wasters,’ *e.g.*, *Gaines v. AT&T Mobility Servs., LLC*, 424 F. Supp. 3d 1004, 1014 (S.D. Cal. 2019).” *Leach v. Ingram*, 2024 WL 4041638, at *4 (D. Nev. Sep. 4, 2024). An affirmative defense is insufficiently pleaded if it fails to give the plaintiff “fair notice” of the defense asserted. *Wyshak v. City Nat’l Bank*, 607 F.2d 824, 827 (9th Cir. 1979). A moving party seeking to show that a defense is insufficient, must show “there are no questions of fact, that any questions of law are clear and not in dispute, and

1 that under no set of circumstances could the defense succeed.” *Cal. Dep’t of Toxic Substances Control*
2 *v. Alco Pac., Inc.*, 217 F. Supp. 2d 1028, 1032 (C.D. Cal. 2002) (citation omitted). Given the
3 disfavored status of motions to strike, “courts often require a showing of prejudice by the
4 moving party before granting the requested relief.” *Roadhouse v. L.V. Metro. Police Dep’t*, 290 F.R.D.
5 535, 543 (D. Nev. 2013).

6 On May 1, 2025, the plaintiffs filed a complaint against the defendants for violations of
7 the Federal Trade Commission Act, the Telemarketing Sales Rule, the Restore Online Shoppers’
8 Confidence Act, and the Deceptive Trade provisions of Chapter 598 of the Nevada Revised
9 Statutes. ECF No. 1. On July 7, 2025, the defendants filed an answer. Answer, ECF No. 78.
10 Therein, the defendants assert thirty-three defenses, which they characterize as affirmative
11 defenses, and include a reservation of their rights. *Id.* at 62–67.

12 On July 28, 2025, the plaintiffs filed this pending motion to strike asserting the following
13 arguments: (1) the defendants fail to provide “fair notice”; (2) the defenses asserting various
14 equitable and related theories are insufficiently pled and fail as a matter of law; (3) the
15 defendants’ request for attorney’s fees is not an affirmative defense; and (4) the defendants’
16 reservation of their right to amend their answer in the future is a legal request subject to Federal
17 Rule of Civil Procedure 15. ECF No. 90 at 3. In opposition, the defendants argue that the
18 plaintiffs (1) prematurely ask this court to strike their affirmative defenses, (2) inappropriately
19 conflate the difference between insufficiency as a matter of law and insufficiency as a matter of
20 pleading, and (3) incorrectly assert that the court should strike its equitable defenses because
21 other courts have done so. ECF No. 102 at 3. I address each argument in turn.

1 A. The motion to strike is granted as to the defendants' affirmative defenses
2 No. 4 and No. 25.

3 *1. Affirmative defense No. 4*

4 The defendants' affirmative defense No. 4 asserts: "Plaintiffs' claims are barred, in whole
5 or in part, for failure to satisfy the required administrative or procedural prerequisites necessary
6 to raise such claims or seek such relief." ECF No. 78 at 62. In their motion, the plaintiffs assert
7 that the defendants' affirmative defense No. 4 fails to provide fair notice of the nature of the
8 defenses. ECF No. 90 at 5–6. In opposition, the defendants argue that the affirmative defense is
9 "sufficiently pleaded to put [the p]laintiffs on notice of what administrative or procedural
10 prerequisites under the statutory provisions sought by [the p]laintiffs are necessary to raise such
11 claims or seek such relief." ECF No. 102 at 10. They further argue that the plaintiffs "feigned
12 ignorance" of the FTC's own administrative procedures are insufficient for purposes of satisfying
13 their burden on a Rule 12(f) motion. *Id.*

14 An affirmative defense requires only that defendant provide fair notice—that is, the
15 defendant must state the nature and grounds for the affirmative defense. *See Conley v. Gibson*, 355
16 U.S. 41, 47–48 (1957). Fair notice does not require a detailed statement of facts. *See Kohler v.*
17 *Islands Rests., LP*, 280 F.R.D. 560 (S.D. Cal. 2012). The court acknowledges that the defendants
18 certainly do not have to provide a detailed account of every fact. However, the defendants simply
19 assert a blanket statement to try to cover all of the plaintiffs' claims. The defendants
20 acknowledge in their answer that there are ten counts listed in the complaint, yet they make not
21 effort to state which claims affirmative defense No. 4 is directed at, nor even attempt to identify
22 what "administrative or procedural prerequisites" they are referring to. *See* ECF No. 78; ECF No.
23 102 at 3–4. As such, affirmative defense No. 4 does not fairly put the plaintiffs on notice and is
24 stricken.

1 **2. Affirmative defense No. 25**

2 In their twenty-fifth defense, the defendants assert that “Plaintiffs’ claims are barred, in
3 whole or part, to the extent any relief requested by Plaintiffs would not be in the public interest
4 and would be contrary to the public interest.” ECF No. 78 at 65. The plaintiffs argue that the
5 defendants make broad assertions, but the affirmative defense is devoid of any factual content.
6 ECF No. 90 at 6. They further argue that the defense does not give any indication why the relief
7 sought by the plaintiffs is contrary to the public interest. *Id.* In opposition, the defendants argue
8 that the court should construe its affirmative defense “as a whole with the complaint” and that
9 their affirmative defense sufficiently pleads to give the plaintiffs fair notice. This argument does
10 nothing to clarify what defendants are attempting to assert. Stated otherwise, affirmative
11 defense No. 25 is vague at best, so its stricken. *See Vanguard Dealer Servs., LLC v. Cervantes*, 2023 WL
12 3852404, at *4 (D. Nev. June 6, 2023) (finding an affirmative defense too vague when the
13 affirmative defense included words such as “in whole or in part” and providing leave to add
14 factual bases for the defenses).

15 **B. The motion to strike is granted in part and denied in part as to the**
16 **defendants’ affirmative defenses Nos. 12, 20, 21, and 22.**

17 The defendants raise several affirmative defenses involving legal theories that include the
18 doctrine of estoppel, unclean hands, and laches. *See generally* ECF No. 78. Because each of these
19 defenses are closely related, I address them together.

20 The defendants raise as their twelfth defense: “Plaintiffs’ claims are barred, in whole or in
21 part, by the doctrine of estoppel, unclean hands, laches, waiver, mistake, excuse, and/ or
22 doctrine of nonperformance.” ECF No. 78 at 63. The plaintiffs move to strike affirmative defense
23 No. 12 because it is inadequately pled and fails to give the plaintiffs fair notice as to the basis for
24 asserting it. ECF No. 90 at 7. Further, the plaintiffs assert that defense No. 12 is a laundry list of
25 alleged defenses, with no legal or factual predicates. *Id.*

1 The defendants' twentieth affirmative defense asserts that "[t]he FTC is barred from
 2 seeking, obtaining, or enforcing any equitable remedy by the doctrine of unclean hands because
 3 of its outrageous conduct during its investigation that led to this action." ECF No. 78 at 65. The
 4 plaintiffs assert that the defense includes only the inflammatory and conclusory allegation that
 5 the FTC engaged in unidentified "outrageous conduct" in conducting its investigation of the
 6 defendants. ECF No. 90 at 7.

7 The defendants' twenty-first affirmative defense asserts that "[t]he FTC's claims are
 8 barred by the doctrine of equitable estoppel because the FTC engaged in affirmative misconduct
 9 that caused substantial injustice—including at least in connection with its investigation of [the
 10 respondents] and selective enforcement of the FTC Act, TSR, and ROSCA." ECF No 78 at 65.

11 Finally, the defendants' twenty-second affirmative defense asserts:
 12 The FTC's claims are barred, in whole or in part, by the doctrine of laches because
 13 the FTC engaged in affirmative misconduct—including at least in connection with
 14 its investigation of IML and selective enforcement of the FTC Act, TSR, and
 15 ROSCA—and inexcusably and unreasonably delayed in filing and serving the
 16 Complaint against RESPONDENTS, coupled with the delay of the consumers it
 17 purports to represent, thereby prejudicing RESPONDENTS.

18 *Id.* The plaintiffs assert that the defendants fail to state what prejudice they suffered and what
 19 substantial injustice occurred. ECF No. 90 at 7. They further assert that the defendants fail to
 20 explain how the FTC "inexcusably and unreasonably delayed in filing," serving the complaint,
 21 and "engaged in selective enforcement" of "the FTC Act, TSR, and ROSCA." *Id.* Moreover, the
 22 plaintiffs assert that affirmative defenses Nos. 20–22 fail to provide the FTC with fair notice of
 23 their nature and should therefore be stricken. *Id.*

24 First, I strike the defendants affirmative defense No. 12 because it is duplicative in nature
 25 with affirmative defenses Nos. 20–22. *See Nicholson v. Dispack Projects NV*, 2025 U.S. Dist. LEXIS
 26 195403, at *2–3 (D. Nev. Oct. 1, 2025) (citing Fed. R. Civ. P. 12(f)) (explaining that a court may
 strike from a pleading any redundant matter). Redundant matters are duplicative and repetitive.

1 *Id.* Here, I find that defense No. 12 is also raised in defense Nos. 20–22, so I strike No. 12 as
 2 duplicative.

3 I deny the plaintiffs’ motion to strike affirmative defense Nos. 20–22. I find that “an
 4 affirmative statement need not contain facts making the defense plausible, as under *Iqbal*,
 5 because Rule 8(c) does not require a ‘showing,’ as does Rule 8(a), but an affirmative defense
 6 must at least fairly identify the legal theory upon which it rests.” *See Rockwell Automation, Inc. v.*
 7 *Beckoff Automation, LLC*, 23 F. Supp. 3d 1236, 1241–42 (D. Nev. 2014) (quoting *Tyco Fire Prods. LP v.*
 8 *Victaulic Co.*, 777 F. Supp. 2d 893, 900 (E.D. Pa. 2011)).

9 In contrast to affirmative defenses Nos. 4 and 25, the defendants have in defenses Nos.
 10 20–22 provided the plaintiffs with notice. *See Walker v. Charter Communs. Inc.*, 2016 U.S. Dist. LEXIS
 11 84510, at *8 (D. Nev. June 29, 2016) (declining to strike the affirmative defenses on the grounds
 12 that the defendants gave the plaintiff fair notice, even when the defendants allegedly failed to
 13 provide specific facts pertaining to a defense). Because a defendant need only give the plaintiff
 14 fair notice of the defense by affirmatively stating what the defense is, *Wyshak*, 607 F.2d at 827, I
 15 deny the plaintiffs’ motion to strike affirmative defenses Nos. 20–22.¹

16 **C. The motion to strike is denied as moot as to defendants’ defense No. 33**
 17 **seeking attorney’s fees.**

18 The defendants also seek in their defense and prayer for relief for attorney’s fees, along
 19 with the costs expended in this action. ECF No. 78 at 67. However, the defendants “voluntarily
 20 withdraw” their affirmative defense seeking attorney’s fees and their reservation of rights
 21 without prejudice. ECF No. 102 at 6. As such, I deny as moot the plaintiffs’ motion to strike as to
 22 affirmative defense No. 33.

24 ¹ I am also unpersuaded by the plaintiffs’ argument that the defendants’ affirmative defenses should be
 25 struck because they are generally unavailable as defenses against a government enforcement action. ECF
 26 No. 90 at 8. *See Rockwell Automation*, 23 F. Supp. 3d at 1241–42 (explaining an affirmative defense need not
 be plausible to survive; it must merely provide fair notice of the issues involved) (citations omitted).

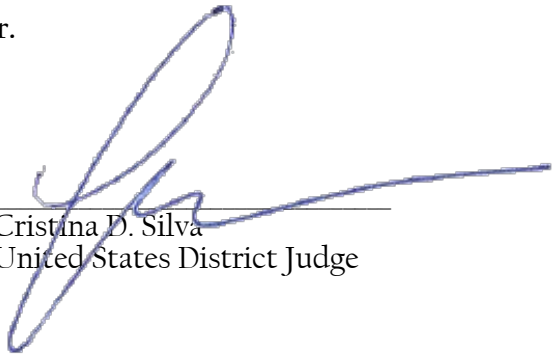
1 D. The motion to strike is granted as to the defendants' reservation of
2 their right to amend their answer.

3 The defendants' answer seeks to "reserve the right to seek to amend and supplement"
4 their answer based on "further investigation and discovery". ECF No. 78 at 3, 67. However, the
5 law maintains that "a reservation of affirmative defenses is not an affirmative defense." *Vanguard*
6 *Dealer Services, LLC*, 2023 WL 3852404, at *5; *see also Hartford Underwriters Ins. Co. v. Kraus USA, Inc.*,
7 313 F.R.D. 572, 578 (N.D. Cal. 2016) (explaining to the extent that the reservation defense
8 attempts to preserve rights already preserved by the Federal Rules, it is duplicative). As such,
9 the court strikes the defendants' affirmative defense, their right to amend their answer.

10 **II. Conclusion**

11 IT IS THEREFORE ORDERED that the plaintiffs' motion to strike [ECF No. 90] is
12 GRANTED in part as set forth in this order.

13 Dated: March 19, 2026

14
15 
16 Cristina D. Silva
17 United States District Judge
18
19
20
21
22
23
24
25
26