

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Nancy Ellen Tevis v. Dyson Direct, Inc.

No. 2:25-cv-00821-DJC-AC · No. No. 2:25-cv-00821-DJC-AC · Decided December 10, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Dyson Direct, Inc.’s motion to strike Nancy Ellen Tevis’s class allegations as untimely under Federal Rule of Civil Procedure 12(f)(2). The court also declined to strike the allegations sua sponte under Rule 12(f)(1), concluding that class-certification issues were better addressed through discovery and the class-certification process. The motion to stay discovery was denied as moot.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Daniel J. Calabretta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 10, 2025
DOCKET	No. 2:25-cv-00821-DJC-AC
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(f) to strike the plaintiff's putative class allegations and separately moved to stay discovery pending resolution of that motion. The court denied the motion to strike as untimely and declined to strike the allegations sua sponte; it denied the discovery stay as moot.
STANDARD OF REVIEW	A Rule 12(f) motion is discretionary, and pleadings are viewed in the light most favorable to the nonmoving party. Material should be stricken only when it clearly could have no possible bearing on the litigation or when prejudice would result from denying the motion.
PRECEDENTIAL VALUE	unpublished district court order; precedential status not stated

TOPICS

- class actions
- pleadings
- civil procedure
- discovery dispute

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Defendant's Rule 12(f)(2) motion to strike the putative class allegations was timely when filed after Defendant had filed an answer.
2. Whether the court should exercise its Rule 12(f)(1) authority to strike the class allegations on its own initiative despite the untimeliness of Defendant's motion.
3. Whether discovery should be stayed pending resolution of the motion to strike.

HOLDINGS

1. When a pleading requires a responsive pleading, a Rule 12(f)(2) motion to strike must be filed before the moving party serves its responsive pleading; a motion filed after the answer is untimely.
2. The court declined to use Rule 12(f)(1) to strike the class allegations sua sponte because doing so based on the arguments in an untimely party motion would circumvent the Ninth Circuit's timeliness rule.
3. The motion to stay discovery was denied as moot because the motion to strike was denied.

KEY QUOTATIONS

“The district court has authority under Rule 12(f) to strike a pleading, in whole or in part, only if a motion is made before the moving party has filed a responsive pleading, unless the court strikes the pleading on its own initiative or no responsive pleading is permitted.” (at 2)

“An order striking class allegations is “functionally equivalent” to an order denying class certification.” (at 4)

“motions to strike class allegations are disfavored because a motion for class certification is a more appropriate vehicle for arguments pertaining to class allegations.” (at 4–5)

FACTUAL BACKGROUND

Nancy Ellen Tevis purchased a Dyson Big Ball Multi Floor Canister Vacuum on Amazon.com on April 26, 2024, and received it on May 4, 2024. She alleged that Dyson's express warranty began on the purchase date rather than the delivery date, contrary to California's Song-Beverly Act, and that she therefore did not receive the full value of the product. She asserted Song-Beverly Act and California Unfair Competition Law claims on behalf of a putative class.

PROCEDURAL HISTORY

Plaintiff filed a putative class action alleging violations of California's Song-Beverly Act and Unfair Competition Law. Defendant previously filed a motion to dismiss, which was denied, and then filed an answer on August 12, 2025. Defendant filed the motion to strike three weeks after filing its answer. The court ordered supplemental briefing on timeliness, denied the motion to strike, denied the stay as moot, and ordered a joint status report within fourteen days.

DISPOSITION

other

CASES CITED

- Harper v. Charter Communications, LLC, No. 2:19-cv-00902-WBS-DMC, 2020 WL 916877, at *5 (E.D. Cal. Feb. 26, 2020)
- Delgado v. Marketsource, Inc., No. 17-cv-07370, 2019 WL 1904216, at *3 (N.D. Cal. Apr. 29, 2019)
- Fantasy, Inc. v. Fogerty, 984 F.2d 1524, 1528 (9th Cir. 1993), rev'd on other grounds by Fogerty v. Fantasy, Inc., 510 U.S. 517 (1994)
- Terpin v. AT&T Mobility, LLC, 399 F. Supp. 3d 1035, 1051 (C.D. Cal. 2019)
- Culinary & Service Employees Union, AFL-CIO Local 555 v. Hawaii Employee Benefits Administration, Inc., 688 F.2d 1228, 1232 (9th Cir. 1982)
- United States v. Wang, 404 F. Supp. 2d 1155, 1157 (N.D. Cal. 2005)
- Oregon Laborers-Employers Trust Funds v. Pacific Fence & Wire Co., 726 F. Supp. 786, 788 (D. Or. 1989)
- Sprint Solutions Inc. v. Pac. Cellupage Inc., 2014 WL 12610204, at *2 (C.D. Cal. Dec. 17, 2014)
- In re Seagate Technology LLC Litigation, No. 16-cv-00523-JCS, 2017 WL 3670779, at *2–3, *5 (N.D. Cal. Aug. 25, 2017)
- Heredia v. Eddie Bauer LLC, No. 16-cv-06236-BLF, 2020 WL 1492710, at *3 (N.D. Cal. Mar. 27, 2020)
- Winnemem Wintu Tribe v. U.S. Forest Service, No. 2:09-cv-01072-KJM-KJN, 2013 WL 1325423, at *2 (E.D. Cal. Mar. 29, 2013)
- In re Mission Bay Jet Sports, No. 08-cv-0146-JM (CAB), 2010 WL 144441, at *3 (S.D. Cal. Jan. 11, 2010)
- Hubbs v. Big Lots Stores, Inc., No. 2:15-cv-01601-JAK-AS, 2019 WL 12536592, at *3–4 (C.D. Cal. July 2, 2019)
- Microsoft Corp. v. Baker, 582 U.S. 23, 34 n.7 (2017)
- General Telephone Co. of the Southwest v. Falcon, 457 U.S. 147, 160 (1982)
- Olney v. Job.com, Inc., No. 1:12-cv-01724-LJO-SKO, 2013 WL 5476813, at *3 (E.D. Cal. Sept. 30, 2013)
- Vinole v. Countrywide Home Loans, Inc., 571 F.3d 935, 942 (9th Cir. 2009)
- Itzhak v. Keurig Dr. Pepper, Inc., 2025 WL 2020029, at *7 (C.D. Cal. June 11, 2025)
- Hovespian v. Apple, Inc., 2009 WL 5069144 (N.D. Cal. Dec. 17, 2009)
- Tietsworth v. Sears, 720 F. Supp. 2d 1123 (N.D. Cal. Mar. 31, 2010)
- Fogerty v. Fantasy, Inc., 510 U.S. 517 (1994)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 NANCY ELLEN TEVIS, No. 2:25-cv-00821-DJC-AC 12 Plaintiff, 13 v.
ORDER 14 DYSON DIRECT, INC., 15 Defendant. 16 17 18 Defendant Dyson Direct, Inc.,

moves to strike Plaintiff Nancy Tevis's class 19 allegations in her Complaint. (ECF No. 26.) Dyson also moves to stay discovery 20 pending resolution of the Motion to Strike.

(ECF No. 29.) For the reasons explained 21 below, the Motion to Strike is DENIED. The Motion to Stay is DENIED as moot. 22 BACKGROUND 23 On April 26, 2024, Plaintiff Nancy Tevis purchased Defendant Dyson Direct, 24 Inc.'s Big Ball Multi Floor Canister Vacuum (the "Product") on Amazon.com. (Compl. 25 (ECF No. 1) ¶¶ 6, 13.) Eight days later, on May 4, 2024, the Product was delivered to 26 Plaintiff.

(Id. ¶ 14.) Plaintiff alleges that the Product's express warranty states: "Your 27 Dyson machine is warranted against original defects in materials and workmanship for 28 a period of 5 years from the date of purchase." (Id. ¶ 15.) Plaintiff alleges that the 1 Product's express warranty is in violation of California's Song-Beverly Act, which 2 requires that an express warranty not commence earlier than the "date of the delivery 3 of the good." (Id. ¶ 2 (citing Cal. Civ.

Code § 1793.01).) Because Plaintiff alleges that 4 her warranty began before the date of delivery, she pleads that she has not received 5 the full value of the Product. (Id. ¶ 17.) On behalf of a putative class, Plaintiff filed a 6 complaint, bringing claims for violation of the Song-Beverly Act and California's Unfair 7 Competition Law. (Id. ¶¶ 36–62.) 8 Defendant now moves to strike Plaintiff's class allegations (Strike Mot.

(ECF No. 9 26)) and to stay discovery (Stay Mot. (ECF No. 29)). Plaintiff filed Oppositions and 10 Defendant filed Replies. (Strike Opp'n (ECF No. 28); Strike Reply (ECF No. 30); Stay 11 Opp'n (ECF No. 31); Stay Reply (ECF No. 32).)

The Court ordered supplemental 12 briefing on whether the motion to strike was timely, and briefing is now complete. (P's 13 Suppl. Br. (ECF No. 36); D's Suppl. Br. (ECF No. 37.)). The Court took the matter under 14 submission pursuant to Local Rule 230(g). (ECF No. 34.) 15 LEGAL STANDARDS 16 Federal Rule of Civil Procedure 12(f) permits the court to "strike from a pleading 17 an insufficient defense or any redundant, immaterial, impertinent, or scandalous 18 matter." "Motions to strike should not be granted unless the matter to be stricken 19 clearly could have no possible bearing on the subject of the litigation or unless 20 prejudice would result to the moving party from denial of the motion." Harper v. 21 Charter Commc'ns, LLC, No. 2:19-cv-00902-WBS-DMC, 2020 WL 916877, at *5 (E.D.

22 Cal. Feb. 26, 2020) (quoting Delgado v. Marketsource, Inc., No. 17-cv-07370, 2019 WL 23 1904216, at *3 (N.D. Cal. Apr. 29, 2019) (cleaned up)). Whether to grant a motion to 24 strike is made at the Court's discretion. See Fantasy, Inc. v. Fogerty, 984 F.2d 1524, 25 1528 (9th Cir. 1993), rev'd on other grounds by Fogerty v. Fantastic, Inc., 510 U.S. 517 26 (1994).

The court must view the pleadings in the light most favorable to the non- 27 moving party. Terpin v. AT&T Mobility, LLC, 399 F. Supp. 3d 1035, 1051 (C.D. Cal. 28 2019) (citations omitted). 1

ANALYSIS 2 I. Timing of Motion to Strike under Rule 12(f)(2) 3 While not raised by the parties, the Court sua sponte ordered briefing as to 4 whether the Motion to Strike was timely given that it was filed after Defendant had 5 filed a prior Motion to Dismiss under Rule 12, as well as its answer.

(See ECF No. 34 6 (citing *Culinary & Serv. Emps. Union, AFL-CIO Local 555 v. Hawaii Emp. Benefits 7 Admin., Inc.*, 688 F.2d 1228 (9th Cir. 1982)).) The parties' supplemental briefing 8 confirms that denial of the Motion to Strike is appropriate. 9 Rule 12(f)(2) provides that a party may move to strike portions of a pleading 10 "either before responding to the pleading or, if a response is not allowed, within 21 11 days after being served with the pleading." Fed.

R. Civ. P. 12(f)(2). Here, Plaintiff filed 12 her complaint on March 13, 2025, Defendant moved to dismiss on May 23, 2025, and 13 after the motion was denied, Defendant filed its answer on August 12, 2025. Applying 14 the plain language of the Rule, because the complaint required a responsive 15 pleading, any motion to strike under Rule 12(f) was due before Defendant responded 16 to the complaint.

Defendant filed the pending motion to strike three weeks after filing 17 the answer. In *Culinary*, the Ninth Circuit held that the district court's order striking 18 certain counts from the parties' amended complaint in a similar context was "error": 19 The district court struck the counts relating to the qualifications of the new union trustees.

The court 20 purportedly acted pursuant to Fed. R. Civ. P. 12(f), which permits the court, in its discretion, to order stricken from 21 any pleading "any redundant, immaterial, impertinent, or scandalous matter." This was error.

The district court has 22 authority under Rule 12(f) to strike a pleading, in whole or in part, only if a motion is made before the moving party 23 has filed a responsive pleading, unless the court strikes the pleading on its own initiative or no responsive pleading is 24 permitted.

The district court struck the counts in question upon the motion of the trustees after they had already filed 25 their answer to the complaint. Thus, the motion was untimely under Rule 12(f). 26
//// 27 //// 28 //// 1 688 F.2d at 1232 (*italics added*). Relying on the plain text of Rule 12(f), and the Ninth 2 Circuit's decision in *Culinary*, the Court concludes Defendants' Motion is untimely and 3 is denied on that basis.

4 II. The Court's Exercise of Discretion under Rule 12(f)(1) 5 Rule 12(f) also provides that a court may strike material "on its own," without any 6 time limit. See Fed. R. Civ. P. 12(f)(1). Some district courts have interpreted this 7 language as permitting them to consider an untimely motion to strike. See, e.g., 8 *United States v. Wang*, 404 F. Supp. 2d 1155, 1157 (N.D.

Cal. 2005) (citing *Or. 9 Laborers-Emps. Tr. Funds v. Pac. Fence & Wire Co.*, 726 F. Supp. 786, 788 (D. Or. 10 1989); *Sprint Solutions Inc. v. Pac. Cellupage Inc.*, 2014 WL 12610204, at *2 (C.D. Cal. 11 Dec. 17, 2014). Yet other district courts have denied untimely motions to strike in 12 reliance on the Ninth Circuit’s instructions in *Culinary*. See, e.g., *In re Seagate Tech.*

13 LLC Litig., No. 16-cv-00523-JCS, 2017 WL 3670779, at *2–3 (N.D. Cal. Aug. 25, 2017) 14 (denying motion to strike as untimely filed); *Heredia v. Eddie Bauer LLC*, No. 16-cv- 15 06236-BLF, 2020 WL 1492710, at *3 (N.D. Cal. Mar. 27, 2020) (same); *Winnemem 16 Wintu Tribe v. U.S. Forest Servs.*, No. 2:09-cv-01072-KJM-KJN, 2013 WL 1325423, at *2 17 (E.D. Cal. Mar.

29, 2013) (denying motion to strike as untimely but striking counts on 18 independent ground); but see *In re Mission Bay Jet Sports*, No. 08-cv-0146-JM (CAB), 19 2010 WL 144441, at *3 (S.D. Cal. Jan. 11, 2010) (acknowledging *Culinary* but granting 20 the motion to strike “consistent with Rule 1’s mandate to construe the Federal Rules of 21 Civil Procedure to achieve a just, speedy, and efficient resolution of the action.”).

22 In *Hubbs v. Big Lots Stores, Inc.*, a class action case, defendants filed a motion 23 to strike certain claims more than 80 days after they filed a motion to dismiss portions 24 of an amended complaint. No. 2:15-cv-01601-JAK-AS, 2019 WL 12536592, at *3 25 (C.D. Cal. Jul. 2, 2019).

After a hearing, the district court issued its order denying the 26 motion to strike as untimely in reliance on *Culinary*. See generally *id.* The district 27 court surveyed cases granting motions to strike under 12(f)(1), observing that such sua 28 sponte rulings were consistent with the following statement in an authoritative treatise: 1 The authority given the court by the rule to strike an 2 insufficient defense on its ‘own initiative at any time’ has been interpreted to allow the district court to consider 3 untimely motions to strike and to grant them if doing so seems proper.

This judicial discretion is appropriate since 4 in many instances a motion to strike redundant, impertinent, immaterial, or scandalous matter is designed 5 to eliminate allegations from the pleadings that might cause prejudice at some later point in the litigation.

In light 6 of this, the time limitations set out in Rule 12(f) should not be applied strictly when the motion to strike seems to have 7 merit. 8 *Id.* at *3–4 (quoting 5C Wright & Miller, *Fed. Prac. & Proc. Civ.* § 1380 (3d ed. 2017)). 9 The *Hubbs* court ultimately declined to exercise its discretion under 12(f)(1), however, 10 reasoning that “permitting post-answer Rule 12(f)(2) motions to strike class allegations 11 under the guise of Rule 12(f)(1) sua sponte action would... be a transparent fiction in 12 violation of at least the spirit, if not also the letter, of the Ninth Circuit’s holding in 13 *Culinary*.” *Id.* at *3 (quoting *In re Seagate Tech.*

LLC, 2017 WL 3670779, at *5). The 14 court observed that “[a] court is not moving to strike ‘on its own initiative’ if it relies 15 upon the arguments provided by a party to strike the same language that the party 16 sought to have stricken.” *Id.* On balance, the court concluded that

“[n]otwithstanding 17 the persuasive authority that would permit striking the language identified... to do so 18 would not be consistent with Culinary.” Id. 19 Similarly in Seagate, the defendant filed a motion to strike nationwide class 20 allegations in a misrepresentation action involving computer hard drives.

2017 WL 21 3670779, at *1. The court declined to strike the class allegations sua sponte, “even if 22 the [c]ourt agreed with [the moving party’s] arguments,” because it would functionally 23 violate Culinary, creating “yet a third stage at which parties could raise such 24 arguments—in addition to the traditional class certification stage and the pre-answer 25 motions... thus potentially encouraging piecemeal and redundant motions practice.” 26 Id. at *5.

The court also noted, and which is true here, that the class certification stage 27 provided an adequate opportunity to address objections to the putative class that 28 1 Defendant failed to raise before filing its answer. Id. The Court finds the analysis in 2 Hubbs and In re Seagate to be persuasive. 3 Defendant’s reliance on In re Mission Bay Jet Sports, LLC, is unavailing.

In 4 Mission Bay, the court struck a certain affirmative defense, notwithstanding Culinary 5 and the motion to strike’s untimeliness, because the particular defense was not 6 supported by “any plausible argument.” 2010 WL 144441, at *3.

Here, in contrast, 7 “[a]n order striking class allegations is ‘functionally equivalent’ to an order denying 8 class certification.” Microsoft Corp. v. Baker, 582 U.S. 23, 34 n.7 (2017) (cleaned up). 9 While the Supreme Court has noted there are times in which “the issues are plain 10 enough from the pleadings to determine whether the interests of the absent parties 11 are fairly encompassed within the named plaintiff’s claim,” it did so in the face of a 12 motion for class certification.

See Gen. Tel. Co. of Sw. v. Falcon, 457 U.S. 147, 160 13 (1982). Consequently, “motions to strike class allegations are disfavored because a 14 motion for class certification is a more appropriate vehicle for arguments pertaining to 15 class allegations.” Olney v. Job.com, Inc., No. 1:12-cv-01724-LJO-SKO, 2013 WL 16 5476813, at *3 (E.D. Cal. Sep. 30, 2013) (internal citations omitted).¹ 17 As the Ninth Circuit has recognized, “[o]ur cases stand for the unremarkable 18 proposition that often the pleadings alone will not resolve the question of class 19 certification and that some discovery will be warranted.” Vinole v. Countrywide Home 20 Loans, Inc., 571 F.3d 935, 942 (9th Cir.

2009). The Court declines to strike Plaintiffs’ 21 class allegations before the parties have had an opportunity to proceed through 22 discovery and the class certification process. Accordingly, without prejudice to 23 Defendant raising the class allegations arguments in a more appropriate posture, the 24 Court declines to strike the class allegations sua sponte under Rule 12(f)(1).

25 1 Defendant also points to Itzhak v. Keurig Dr. Pepper, Inc., 2025 WL 2020029, at *7 (C.D. Cal. Jun. 11, 26 2025), which had identical class allegations to the ones in this case. (D’s Suppl.

Br. at 2–3.) However, the motion to strike in Itzhak was timely filed under Rule 12(f)(2). Similarly, the motions to strike in 27 Hovespian v. Apple, Inc., 2009 WL 5069144 (N.D.

Cal. Dec. 17, 2009), and Tietsworth v. Sears, 720 F. Supp. 2d 1123 (N.D. Cal. Mar. 31, 2010), were also timely filed. For the reasons stated elsewhere in the 28 Order, the Court declines to grant the Motion to Strike in its current procedural posture. 1 | Ill. Motion to Stay 2 Defendant also moves to stay discovery pending resolution of the Motion to 3 | Strike.

Because the Motion to Strike is now denied, the Motion to Stay is denied as 4 | moot. 5
CONCLUSION 6 For the reasons explained above, IT IS HEREBY ORDERED that: 7 1.
Defendant's Motion to Strike (ECF No. 26) is DENIED; and 8 2. Defendant's Motion to Stay (ECF
No. 29) is DENIED AS MOOT; and 9 3. Within fourteen days of this Order, the parties shall file a
joint status report 10 pursuant to the Court's Initial Case Management Order.

11 12 IT 1S SO ORDERED. 13 | Dated: _December 9, 2025 “Danel J bnretto— Hon. Daniel
alabretta ‘4 UNITED STATES DISTRICT JUDGE 15 16 17 | psce—Tevis.25¢v00821 strike_stay
18 19 20 21 22 23 24 25 26 27 28