

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

JAMES E. BAUMANN and DEBORA K.
BAUMANN,

Plaintiffs,

v.

Case No: 6:15-cv-1951-Orl-40GJK

PROBER & RAPHAEL and MARINOSCI
LAW GROUP, PC,

Defendants.

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ORDER

This cause comes before the Court on Defendant Marinosci Law Group PC's Renewed Motion to Dismiss Amended Complaint (Doc. 129), filed July 16, 2018. On September 1, 2016, this Court dismissed with prejudice Plaintiffs' claims against Defendant Marinosci Law Group PC ("**Marinosci**"). (Doc. 47). The portions of the Court's Order dismissing the claims against Marinosci were vacated on appeal, and the matter was remanded so the Court could "address the viability of the settlement-based claims in the first instance." (Doc. 123, p. 14). Accordingly, Marinosci's original motion to dismiss—which was granted by this Court's since-vacated Order—is now pending. (Doc. 16).

Notwithstanding the pendency of its original motion to dismiss, Marinosci filed a renewed motion to dismiss, highlighting the sequence of events that the appellate court "may have been unaware of." (Doc. 129). Defendant Marinosci's renewed motion to dismiss is due to be stricken because it is redundant of its original motion to dismiss, which is presently pending. Fed. R. Civ. P. 12(f). Moreover, to the extent the renewed motion includes arguments available but omitted from Marinosci's original motion to

dismiss, they are due to be denied denied. Fed. R. Civ. P. 12(g)(2); see also *Ellis v. Worldwide Capital Holdings, Inc.*, No. EDCV 14-1427 JGB (KKx), 2015 WL 12697722, at *2 (C.D. Cal. Mar. 24, 2015) (“[Rule 12(g)] contemplates the presentation of an omnibus pre-answer motion in which defendant advances every available Rule 12 defense and objection he may have that is assertable by motion. Based on this reasoning, courts have held that successive motions to dismiss for failure to state a claim are not allowed.” (citation omitted) (quoting *Pilgrim Badge & Lapel Corp. v. Barrios*, 857 F.2d 1, 3 (1st Cir. 1988))).

Accordingly, it is **ORDERED** that Defendant Marinosci Law Group PC’s Renewed Motion to Dismiss Amended Complaint (Doc. 129) is **STRICKEN**.

DONE AND ORDERED in Orlando, Florida on July 18, 2018.


PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties