

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

SUE-ZANNE MANN,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	2:07cv751-MHT
)	(WO)
JAMES A. DARDEN and)	
CAMILLE V. EMMANUEL,)	
)	
Defendants.)	

OPINION AND ORDER

Plaintiff Sue-Zanne Mann has filed a motion to strike (Doc. No. 33), arguing that portions of the defendants' motion for summary judgment, supporting brief, and exhibits contain several evidentiary flaws. It is ORDERED that motion is denied for the following reasons.

Rule 12(f) of the Federal Rules of Civil Procedure plainly applies only to pleadings. "Upon motion made by a party ... the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f) (emphasis added). Mann's request to

"strike" argument in a motion for summary judgment and references to evidence accompanying such a motion is not a request to strike material from a pleading. 2 James Wm. Moore, et al., Moore's Federal Practice § 12.37[2] (3d ed. 1999) ("Only material included in a 'pleading' may be subject of a motion to strike. ... Motions, briefs or memoranda, objections, or affidavits may not be attacked by the motion to strike.").

Nevertheless, in resolving the defendants' summary-judgment motion, the court has implicitly considered the motion to strike as, instead, notices of objection to the evidence offered. Norman v. Southern Guar. Ins. Co., 191 F. Supp. 2d 1321, 1328 (M.D. Ala. 2002) (Thompson, J.); Anderson v. Radisson Hotel Corp., 834 F. Supp. 1364, 1368 n.1 (S.D. Ga. 1993) (Bowen, J.).

The court is capable of sifting through evidence, as required by the summary-judgment standard, without resort to an exclusionary process, and the court will not allow

the summary-judgment stage to degenerate into a battle of motions to strike.

DONE, this the 6th day of July, 2009.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE