

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

BRANCH BANKING AND TRUST)
COMPANY, successor in)
interest to Colonial Bank)
by acquisition of assets)
from FDIC as Receiver for)
Colonial Bank,)
)
Plaintiff,)
)
v.)
)
SYNTELLECT, INC., a)
Delaware corporation,)
)
Defendant.)

CIVIL ACTION NO.
2:08cv955-MHT
(WO)

ORDER

It is ORDERED that plaintiff Branch Banking and Trust Company's motion to strike (doc. no. 106) is denied.

In resolving the parties' cross-motions for summary judgment, the court has implicitly considered the motion to strike as notice of objection to the evidence described. See Norman v. Southern Guar. Ins. Co., 191 F. Supp. 2d 1321, 1328 (M.D. Ala. 2002); Anderson v. Radisson Hotel Corp., 834 F. Supp. 1364, 1368 n. 1 (S.D.

Ga. 1993). The court is capable of sifting 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 22nd day of July, 2010.

 /s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE