

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

DEMITRIA BUTLER,)	
)	
Plaintiff,)	
v.)	Case No.: 3:10cv828-WHA
)	
CHARTER COMMUNICATIONS, INC.,)	(wo)
PROTECTION ONE SYSTEMS, et al.,)	
)	
Defendants.)	

ORDER

This case is before the court on Defendant Charter’s Motions to Strike (Doc. #86), and Plaintiff’s Response thereto (Doc. #88). By these motions, the Defendant seeks to have stricken the Plaintiff’s Opposition to Charter’s Motion for Summary Judgment, Plaintiff’s Brief, and/or the affidavit of Erick Butler.

This is the second time the court has been required to address an issue of timeliness of filing on the part of Plaintiff’s counsel. A deadline is a deadline. Meeting a filing deadline is made more problematic when counsel waits until the last minute to attempt to comply, particularly in waiting until nearly midnight to do so.

The court will not strike the Response and Brief in this instance on the basis of not being timely, and to that extent the Motions are due to be DENIED. However, Plaintiff is DIRECTED to make all future filings in this case on or before 5:00 p.m. on the deadline date. Failure to do so will result in the late filing to be stricken on motion of opposing parties.

As to the motion to strike the affidavit of Erick Butler, the court finds that the circumstances of this case call for allowing a Charter reasonable opportunity to depose Mr.

Butler, if it chooses to do so, before filing its Reply. To that end, it is hereby ORDERED as follows:

1. The deadline for Defendant Charter to Reply to Plaintiff's Response is extended from September 30, 2011 to October 14, 2011.

2. Promptly upon receipt of this Order, Plaintiff's counsel shall advise counsel for Charter of the location where Erick Butler can be served with a deposition subpoena and cooperate with Defendant's counsel in arranging for the taking of Mr. Butler's deposition as soon as possible, if Charter wishes to take his deposition.

3. The discovery deadline is extended to October 14, 2011 for the sole purpose of allowing Defendant Charter to depose Erick Butler within the time allowed, if it chooses to do so.

4. The motion to strike Erick Butler's affidavit, contained within Doc. #86, is held in abeyance pending compliance with this Order.

5. The Motions to Strike (Doc. #86) are DENIED in all other respects.

Done this 29th day of September, 2011.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE