

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

MERRILL TODD,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	3:12cv589-MHT
)	(WO)
CITY OF LAFAYETTE, et al.,)	
)	
Defendants.)	

OPINION AND ORDER

The cause is before the court on the defendants' motions to strike.

The defendants ask the court to strike certain evidentiary material from the record on summary judgment. The Federal Rules of Civil Procedure, however, restrict the use of a motion to strike to the pleadings. A motion to strike is not an appropriate vehicle for a general attack on the government's affidavits and evidence. See Lowery v. Hoffman, 188 F.R.D. 651, 653 (M.D. Ala 1999) (Thompson, J.); Fed. R. Civ. P. 12(f); see also 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.").

The correct approach is to object to an opposing party's factual assertion on the ground that it "cannot be presented in a form that would be admissible in evidence." Fed. R. Civ. P. 56(c)(2). The court will construe the motions to strike as notice of objections in accordance with Federal Rule of Civil Procedure 56. Where those objections bear on the disposition of the defendants' motion for summary judgment, they will be discussed in this court's summary-judgment opinion.

Accordingly, it is ORDERED that defendants' motions to strike (Doc. Nos. 70 & 79) are denied.

DONE, this the 12th day of March, 2013.

 /s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE