

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>PHILLIP CROW,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>CIVIL ACTION NO. 07-0740-KD-C</b>
	)	
<b>COOPER MARINE &amp; TIMBERLANDS</b>	)	
<b>CORPORATION,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER**

This matter is before the court on the following: plaintiff’s “Motion to Compel Reinstatement of Maintenance and Cure” (doc. 55); defendant’s response in opposition (doc. 63); plaintiff’s reply (doc. 67); defendant’s sur-reply (doc. 68)<sup>1</sup>, and plaintiff’s motion to strike defendant’s sur-reply (doc. 69). Upon consideration, plaintiff’s motion to compel reinstatement of maintenance and cure is DENIED.<sup>2</sup>

Although styled as a “Motion to Compel”, the plaintiff’s motion is actually a motion for summary judgment on the claim for maintenance and cure. Defendant is correct that there are genuine issues of material fact regarding whether maintenance and cure are owed to plaintiff after October 17, 2007. However, the plaintiff’s motion is also due to be denied since it is an

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<sup>1</sup> Defendant’s submission is entitled “Defendant’s Supplement to its Request for Oral Argument of Plaintiff’s Motion to Reinstate Maintenance and Cure.”

<sup>2</sup> In light of the court’s ruling on the motion to compel reinstatement of maintenance and cure (doc. 55), the plaintiff’s motion to strike (doc. 69) is MOOT.

extremely untimely dispositive motion.<sup>3</sup> Accordingly, upon consideration, the plaintiff's motion is DENIED.

DONE this the 4<sup>th</sup> day of May 2009.

/s/ Kristi K. DuBose  
**KRISTI K. DuBOSE**  
**UNITED STATES DISTRICT JUDGE**

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<sup>3</sup> The dispositive motion deadline was November 17, 2008. The plaintiff's motion for partial summary judgment on defendant's counterclaim for recoupment of maintenance and cure was also untimely, as it was filed on December 2, 2008. However, no objection to the motion was advanced on this ground. Because the court had sufficient time to rule on the partial motion for summary judgment, the court did not strike that motion as untimely.