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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
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9 United States of America,  
10 Plaintiff,

11 vs.

12 Robert F. Smith,  
13 Defendant.  
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No. CV10-2358-PHX-DGC

**ORDER**

15 On August 17, 2011, pro se Defendant Robert F. Smith filed a motion to strike  
16 four certificates of tax assessments against him for the years 1999-2002 on the basis that  
17 they were not properly certified. Doc. 36. These certificates were submitted by Plaintiff  
18 as exhibits in its response to Mr. Smith's February 16, 2011, motion to dismiss. *See*  
19 Doc. 15, Exhibits B-E, Doc. 14. The motion has been fully briefed. Docs. 37, 38. For  
20 the reasons stated below, the Court will deny the motion as moot.

21 Motions to Strike under Rule 12(f) are to be filed "either before responding to the  
22 pleading or, if a response is not allowed, within 21 days after being served with the  
23 pleading." Fed. R. Ev. 12(f). Additionally, Local Rule 7.2(m) provides that "[a]n  
24 objection to the admission of evidence . . . must be presented in the objecting party's  
25 responsive or reply memorandum . . . and not in a separate motion to strike or other  
26 separate filing." LRCiv 7.2(m)(2). Mr. Smith did not raise an objection to Plaintiff's  
27 exhibits either in his reply or within 21 days of receiving Plaintiff's response to his  
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1 motion to dismiss. *See* Doc. 18. Moreover, Mr. Smith’s motion is moot because he did  
2 not file it until nearly five months after the Court had already denied his motion to  
3 dismiss. *See* Doc. 19. The Court has no basis to strike the attachments from pleadings  
4 that it has already ruled upon.

5 To the extent that Mr. Smith suggests that his motion is really an “Objection to the  
6 Admission of Exhibits” (Doc. 38 at 6), the Court advises Mr. Smith that attachment of  
7 exhibits to the response says nothing about whether they later will be admissible on  
8 summary judgment or at trial. Mr. Smith will have an opportunity to object to the  
9 admissibility of the exhibits if they are used at that time.

10 **IT IS ORDERED** that Defendant’s motion to strike (Doc. 36) is **denied**.

11 Dated this 3rd day of November, 2011.

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16 David G. Campbell  
17 United States District Judge  
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