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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Western Alliance Bank,
Plaintiff,
vs.
Richard Jefferson,
Defendant.

2:14-cv-0761 JWS
ORDER AND OPINION
[Re: Motion at docket 182]

Richard Jefferson,
Counter-claimant,
vs.
Western Alliance Bank,
Counter-defendant.

Richard Jefferson,
Third-party plaintiff,
vs.
Theodore Kritza & Michelle Lee
Kritza,
Third-party defendants.

1 **I. MOTION PRESENTED**

2 At docket 182 defendant, counter-claimant, and third-party plaintiff Richard
3 Jefferson (“Jefferson”) moves to strike the filing of plaintiff and counter-defendant
4 Western Alliance Bank (“Alliance”) at docket 177. Alliance opposes at docket 189.
5 Jefferson replies at docket 200. Oral argument was not requested and would not assist
6 the court.

7 **II. STANDARD OF REVIEW**

8 Local Rule of Civil Procedure (“Local Rule”) 7.2(m) governs motions to strike. It
9 provides in pertinent part that a motion to strike may be filed “if it seeks to strike any
10 part of a filing or submission on the ground that it is prohibited (or not authorized) by a
11 statute, rule, or court order.”¹ The decision to grant or deny a motion to strike is within
12 the court’s discretion.²

13 **III. DISCUSSION**

14 Alliance filed a motion for summary judgment³ supported by a fourteen-page,
15 sixty-paragraph separate statement of facts (“SOF”).⁴ Jefferson filed an opposition to
16 the motion⁵ supported by a 140-page document that contains his controverting
17 statement of facts (“CSOF”) and additional statement of facts (“ASOF”).⁶ Alliance then
18 filed a reply⁷ and a separate response to Jefferson’s CSOF and ASOF.⁸ Alliance’s

19 _____
20 ¹LRCiv 7.2(m)(1).

21 ²*Spencer v. Stapler*, No. 04-1532 PHX SMM, 2006 WL 2052704, at *2 (D. Ariz. July 21,
22 2006).

23 ³Doc. 131.

24 ⁴Doc. 134.

25 ⁵Doc. 163.

26 ⁶Doc. 166.

27 ⁷Doc. 174.

28 ⁸Doc. 177.

1 separate response is the subject of Jefferson’s present motion to strike. In it, Alliance
2 (1) objects to facts set out in Jefferson’s ASOF as being “repetitive;” (2) responds to
3 facts set out in Jefferson’s ASOF that it concedes are not repetitive; and (3) responds to
4 Jefferson’s evidentiary objections to its own SOF.⁹

5 Jefferson argues that Alliance’s response is unauthorized by the Local Rules.
6 He is correct. If the moving party wishes to respond to a non-moving party’s statement
7 of facts or evidentiary objections, it may do so in its reply memorandum—not in a
8 separate responsive memorandum.¹⁰ Because Alliance’s separate memorandum
9 responds to Jefferson’s ASOF and the evidentiary objections in Jefferson’s CSOF, it is
10 unauthorized and Jefferson’s motion to strike will be granted.

11 The court notes that Jefferson’s filing at docket 166 also violates the Local
12 Rules. Local Rule 7.2 permits a non-moving party to include in its controverting
13 statement of facts objections to the moving party’s statement of facts, but such
14 objections “must be stated summarily without argument.”¹¹ Argument belongs in the
15 non-moving party’s opposition brief, within the page limit.¹² Jefferson’s 103-page CSOF
16 flaunts this rule; it is filled with objections accompanied by explanation and argument.
17 Many of Jefferson’s objections span multiple pages.¹³ Jefferson’s arguments in support
18 of his evidentiary objections are improper and will not be considered by the court.

21 ⁹Doc. 177.

22 ¹⁰See *B2B CFO Partners, LLC v. Kaufman*, 856 F. Supp. 2d 1084, 1086-87 (D. Ariz.
23 2012) (“The Local Rules do not contemplate . . . filing a separate response to the non-moving
24 party’s statement of facts. ”); LRCiv 7.2(m)(2) (“Any response to an objection must be included
25 in the responding party’s reply memorandum for the underlying motion and may not be
presented in a separate responsive memorandum.”).

26 ¹¹LRCiv 7.2(m)(2).

27 ¹²*Marceau v. Int’l Bhd. of Elec. Workers*, 618 F. Supp. 2d 1127, 1141 (D. Ariz. 2009).

28 ¹³See, e.g., Doc. 166. at 38-41, 71-75.

