

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

LOIS DRIVER, et al

PLAINTIFFS

VS.

CASE NO. 4:13-CV-4074

D. MOSLEY TRUCKING, INC.,
et al

DEFENDANTS

ORDER

Before the Court is Defendants' Motion to Strike Amended Complaint. (ECF No. 86). Plaintiffs have filed a response. (ECF No. 87). Defendants have filed a reply. (ECF No. 91).¹ The Court finds this matter ripe for consideration. On June 5, 2014, the Court granted Plaintiffs' Motion for Leave to File Amended Complaint. (ECF No. 75). On June 11, 2014, Plaintiffs filed their First Amended Complaint. (ECF No. 78). As Defendants point out, this Amended Complaint is not identical to the proposed amended complaint attached to Plaintiffs' motion to amend. For this reason, Defendants request that the Court strike the First Amended Complaint.

Pursuant to Local Rule 5.5(e), the Court only considered the proposed amended complaint attached to Plaintiffs' motion to amend. The amended complaint that was eventually filed deviates substantially from the proposed amendment.² Accordingly, the Court finds that the motion should

¹The Court would like to remind the parties that, with the exception of motions for summary judgment, the Local Rules do not provide for the filing of replies. In the future, the parties must obtain leave of Court prior to filing a reply or sur-reply.

²The Court recognizes that some of the revisions to the proposed amended complaint were attached as an exhibit to Plaintiffs' reply in support of the motion to amend. Local Rule 5.5(e) is very clear about the importance of attaching the proposed amendments to the original motion. Accordingly, the revisions attached to the reply were not considered by the Court. Even if they had been considered, the Amended Complaint as filed would still be struck because it did

be and hereby is **GRANTED**. Plaintiffs must file the original proposed amended complaint (ECF No. 48, Exh 1) on or before July 2, 2014. Plaintiffs are free to seek leave to amend their complaint for a second time, but they will be required to show good cause for deviating from the Court's deadline to amend pleadings.

Defendants' Motion for Extension of Time to File Answer (ECF No. 90) is **DENIED AS MOOT**.

IT IS SO ORDERED, this 30th day of June, 2014.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge

not comply with the revisions attached to the reply.