

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

RONALD CHERRY

PLAINTIFF

vs.

Case No. 4:13-cv-04095

SOUTHERN REFRIGERATED  
TRANSPORT

DEFENDANT

**ORDER**

**BEFORE** the Court is Defendant's Motion to Strike Response. ECF No. 14. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3) (2005), United States District Judge Susan O. Hickey referred the Motion to the undersigned for decision. This matter is ready for decision.

**1. Background:**

On October 15, 2013, Plaintiff filed a *pro se* Complaint against Defendant alleging discrimination based on race and color. ECF No. 1. On February 20, 2014, Defendant filed its Answer. ECF No. 11. On March 17, 2014, Plaintiff filed a Rebuttal Response to Answers. ECF No. 13. On April 2, 2014 Defendant file a Motion to Strike Response. ECF No. 14. With this Motion, Defendant seeks to strike Plaintiff's Rebuttal Response to Answers. *Id.* Plaintiff failed to respond to this Motion.

**2. Discussion:**

Rule 12(f) of the Federal Rules of Civil Procedure provides “[t]he court may strike from a pleading . . . any redundant, immaterial, impertinent, or scandalous matter.” Rule 7(a) of the Federal Rules of Civil Procedure provides:

Only these pleadings are allowed: (1) a complaint; (2) an answer to a complaint; (3) an answer to a counterclaim designated as a counterclaim; (4) an answer to a crossclaim; (5) a third-party complaint; (6) an answer to a third-party complaint; and (7) if the court orders one, a reply to an answer.

Fed. R. Civ. P. 7(a)(1).

In reviewing Plaintiff's Rebuttal Response to Answers, it is neither a complaint, or answer to a complaint, counterclaim, or crossclaim, a third-party complaint, or answer to third-party complaint. ECF No. 13. A liberal reading of this pleading shows it to be at best to be a reply, however, this Court has not ordered a reply to an answer. As a result, this entire pleading by Plaintiff is immaterial and impertinent.

Accordingly, Defendant's Motion to Strike Response (ECF No. 14) is **GRANTED**. The Clerk is **DIRECTED** to strike Plaintiff's Rebuttal Response to Answers. (ECF No. 13).

**DATED this 21st day of April, 2014.**

/s/ Barry A. Bryant  
HON. BARRY A. BRYANT  
U.S. MAGISTRATE JUDGE