

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 14-cv-0154-WJM-CBS

BIO MED TECHNOLOGIES CORPORATION,

Plaintiff,

v.

SORIN CRM USA, INC., f/k/a ELA MEDICAL, INC.,

Defendant.

**ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT'S EXPEDITED MOTION TO STRIKE**

This matter is before the Court on Defendant's Expedited Motion to Strike Plaintiff's Response to Sorin's Motion for Summary Judgment ("Motion"). (ECF No. 91.) Defendant alleges that Plaintiff's Response to Defendant's Motion for Summary Judgment ("Response") (ECF No. 88) fails to conform to the Court's Practice Standards in several ways. (*Id.*) Plaintiff responded to the Motion on April 6, 2015. (ECF No. 92.)

After reviewing the parties' briefs and Plaintiff's Response, the Court finds that Plaintiff's failure to separately number the paragraphs in its Statement of Undisputed Facts warrants striking the Response with leave to amend. (ECF No. 88 at 24-31.)

This Court's Practice Standards state:

If the party opposing the motion for summary judgment . . . believes there are additional disputed questions which have not been adequately addressed by the movant, the party shall, in a separate section of the party's brief styled "Statement of Additional Disputed Facts," set forth in simple declarative sentences, *separately numbered and paragraphed*, each additional material disputed fact which undercuts movant's claim that movant is entitled to judgment as a matter of law. Each separately

numbered and paragraphed fact shall be accompanied by specific reference to admissible evidence in the record which establishes the fact or demonstrates that it is disputed.

WJM Revised Practice Standards III(E)(6) (emphasis added). Plaintiff's Response is therefore stricken, and Plaintiff will be given until Friday, April 10, 2015 to amend its Response with properly numbered paragraphs.¹ The Court declines to address Defendant's remaining arguments (which all appear to address Plaintiff's allegedly deficient briefing), or Plaintiff's argument that Defense counsel failed to confer in good faith under Local Rule 7.1(a). (ECF Nos. 91 & 92.)

Compliance with the Local Rules and the Court's practice standards would, in a perfect world, eliminate the need for motions such as those here. Moreover, the Court does not have the time, nor the resources, nor the inclination to address the variety of disputes between counsel that arise throughout the course of civil litigation. The Court also cannot permit motions about motions, and "allegedly bad briefing does not permit opposing bad briefing." *Mondo Polymers Tech., Inc. v. Monroeville Indus. Moldings, Inc.*, 2009 WL 3698432, *5 n.3 (S.D. Ohio November 3, 2009). Civil litigation is painfully

¹ The Court declines to strike Plaintiff's Response due to its alleged noncompliance with the Practice Standards' page restrictions. Parties are allowed 20 pages for any substantive legal argument in a responsive brief, and 20 pages for any additional statement of facts. WJM Revised Practice Standards III(E)(3), (7). While Plaintiff did devote 31 pages of its Response to a statement of facts—which exceeds the allotted page limit—the Practice Standards state that "[a]ny recitation of material facts set forth outside of these statements of facts sections shall count against the page limits on legal arguments set forth above." WJM Revised Practice Standards III(E)(7). Plaintiff's Response is 40 pages long exclusive of counsel's signature block and certificate of service and therefore complies with the Practice Standards. WJM Revised Practice Standards III(E)(3), (7).

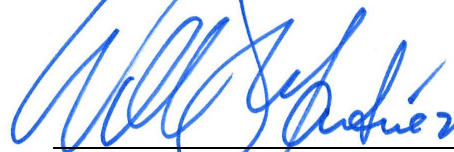
protracted as it is, and the parties are advised that the Court expects full compliance with its Practice Standards and the Local Rules in all future filings.

For the reasons set forth above, the Court ORDERS as follows:

1. Defendant's Motion to Strike Plaintiff's Response to Sorin's Motion for Summary Judgment (ECF No. 91) is GRANTED IN PART and DENIED IN PART;
2. Plaintiff's Response to Defendant's Motion for Summary Judgment (ECF No. 88) is STRICKEN. Plaintiff will have until Friday, April 10, 2015 to amend its Response as specified in this Order. Defendant will not be permitted any further time to file its Reply.

Dated this 8th day of April, 2015.

BY THE COURT:



William J. Martínez
United States District Judge