

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

FRANKLIN HEUSSER, SR., et al.,

Plaintiffs,

v.

KEVIN J. HALE, et al.,

Defendants.

3:07-cv-1660 (CSH)

**RULING ON MOTION TO STRIKE**

HAIGHT, Senior District Judge:

Now pending is Defendants' motion pursuant to Federal Rule of Civil Procedure 12(f) to strike [Doc. 34] certain statements from the May 8, 2008 complaint filed in 3:08-cv-708 (PCD) as being immaterial, impertinent and/or scandalous. That case was consolidated with the captioned case on August 26, 2008. [Doc. 31] Defendants filed this motion on September 4, 2008, seeking dismissal of the May 8, 2008 complaint, or, in the alternative, that certain portions of it be stricken. In response to the motion to dismiss and motion to strike, Plaintiffs filed a request that the May 8, 2008 complaint filed in 3:08-cv-708 (PCD) become the operative complaint in the consolidated proceeding. [Doc. 38] Concurrent with the filing of that request, Plaintiff also sought to amend the May 8, 2008 complaint. [Doc. 39]

On January 7, 2009, this Court granted Plaintiffs' request that the May 8, 2008 complaint filed in 3:08-cv-708 (PCD) become the operative complaint in the consolidated proceeding. [Doc. 42] The Court denied the motion to amend that complaint as having failed to demonstrate that justice required its granting. Id. The Court also denied the motion to dismiss and held in abeyance the motion to strike, giving Plaintiffs until February 6, 2009 to renew their motion to

amend the complaint. Id. Plaintiffs did not subsequently renew their motion to amend.

Therefore, the Court now considers Defendants' motion to strike on its merits.

Plaintiffs never filed an opposition to the motion to strike. To the contrary, Plaintiffs appear to acknowledge that the motion to strike is largely justified, stating in their motion to amend that "[t]he defendants have moved to strike portions of the plaintiffs' complaint. The plaintiffs will comply with the majority of the requested revisions in their amended complaint." [Doc. 39 at ¶ 3.] However, as noted above, no renewed motion to amend or amended complaint was subsequently filed. Local Rule 7 provides that "Failure to submit a memorandum in opposition to a motion may be deemed sufficient cause to grant the motion, except where the pleadings provide sufficient grounds to deny the motion." D. Conn. L. Civ. R. 7(a)(1). After review, the Court finds the motion to strike [Doc. 34] well-founded, and it is hereby granted in full, absent objection.

The May 8, 2008 complaint has never been docketed in 3:07-cv-1660 (CSH), which is the lead case in this proceeding and therefore the only case in which all future filings should be made. Plaintiffs are ordered to modify the May 8, 2008 complaint in a manner consistent with this order by removing the statements that have been stricken, which are identified in detail in Defendants' motion. [Doc. 34] Plaintiffs are ordered to docket the complaint as so amended, and without making any other changes to it, on or before **October 23, 2009** in 3:07-cv-1660 (CSH).

It is SO ORDERED.

Dated: New Haven, Connecticut

October 19, 2009

/s/ Charles S. Haight, Jr.  
Charles S. Haight, Jr.  
Senior United States District Judge