

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DANIEL A. BERNATH,

Plaintiff,

v.

Case No: 2:15-cv-358-FtM-99CM

MARK CAMERON SEAVEY,

Defendant.

ORDER¹

This matter comes before the Court on Defendant American Legion's Motion to Strike Plaintiff's Opposition to Motion to Dismiss and Rule 11 Motion, Or, Alternatively, For Leave to File a Reply Thereto ([Doc. #82](#)) filed on August 25, 2016. American Legion intervened as a named defendant in this suit ([Doc. #66](#)) and thereafter filed a counterclaim against Plaintiff Daniel A. Bernath, who is appearing *pro se*. ([Doc. #69](#)). Plaintiff filed a crossclaim against American Legion ([Doc. #71](#)), to which American Legion moved to dismiss for failure to state claim ([Doc. #77](#)). Plaintiff filed an untimely response in opposition to American Legion's motion. ([Doc. #80](#)). And American Legion has now moved to strike Plaintiff's response as untimely, or, alternatively, it requests leave to file a reply brief. ([Doc. #82](#)).

¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

Because of Plaintiff's *pro se* status, the Court will not strike his opposition to American Legion's motion to dismiss. Nevertheless, it will grant American Legion leave to file a reply brief in order to respond to Plaintiff's allegations. That said, the Court has previously cautioned Plaintiff that, despite his *pro se* status, he must strictly comply with the Federal Rules of Civil Procedures and Middle District of Florida Local Rules. (See e.g., [Doc. #40](#)). And to the extent Plaintiff is a seasoned-licensed attorney in California, he should be no stranger to the consequences of failing to comply with the Court's procedural rules. Consequently, this is Plaintiff's last warning for non-compliance with the federal and local rules; future non-compliant filings may be stricken without further warning.

Accordingly, it is now **ORDERED**:

Defendant American Legion's Motion to Strike Plaintiff's Opposition to Motion to Dismiss and Rule 11 Motion, or, Alternatively, For Leave to File a Reply Thereto ([Doc. #82](#)) is **GRANTED** to the extent that American Legion may file a reply brief, which does not exceed five (5) pages in length, on or before **September 12, 2016**.

DONE and **ORDERED** in Fort Myers, Florida this 29th day of August, 2016.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record