

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DERETHA MILLER, TAMBITHA
BLANKS and WILLIE BLANKS,
individually, and on behalf of a class of
persons similarly situated

Plaintiffs,

v.

Case No.: 2:18-cv-195-FtM-38NPM

THE CITY OF FORT MYERS,
RANDALL P. HENDERSON, JR.
and SAEED KAZEMI,

Defendants.

ORDER¹

Before the Court is Plaintiffs' Motion to Strike Defendants' Dual Summary Judgment Motions ([Doc. 118](#)). Defendants opposes the Motion. ([Doc. 120](#)).

Defendants jointly filed two Motions for Summary Judgment. ([Docs. 115; 116](#)). The Middle District not only frowns on filing multiple summary judgment motions without leave, the Local Rules prohibit it. See [M.D. Fla. R. 3.01\(a\); 3.01\(d\)](#). The Case Management Scheduling Order echoes the Local Rule. ([Doc. 35 at 6](#) ("A motion for summary judgment shall include [all requirements] . . . in a single document not to exceed

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25 pages.”). Courts here interpret that Rule to prohibit filing multiple motions absent leave. E.g., [Benhassine v. Star Transp. Mgmt., Inc.](#), No. 6:12-cv-1508-Orl-37GJK, 2013 WL 12164716, at *1-2 (M.D. Fla. Oct. 29, 2013); [Se. Metals Mfg. Co. v. Fla. Metal Prods., Inc.](#), No. 3:09-cv-1250-J-25TEM, 2011 WL 833260, at *1 (M.D. Fla. Mar. 7, 2011). Multiple summary judgment motions are not a matter of right, so a party must seek leave before filing them. E.g., [Fernandez v. Bankers Nat’l Life Ins.](#), 906 F.2d 559, 569 (11th Cir. 1990); [Essex Ins. v. Foley](#), 827 F. Supp. 2d 1326, 1329 n.2 (S.D. Ala. 2011). And if multiple motions are filed without leave, striking them may be proper. [McKenzie-Wharton v. United Airlines, Inc.](#), No. 8:15-cv-114-17MAP, 2016 WL 5346948, at *7-8 (M.D. Fla. Sept. 23, 2016).

Although Plaintiffs are correct that the Court could strike both Motions for Summary Judgment, the Court will accept them, nevertheless. This case is complex, and the typical page limit is likely not enough to address all the issues. So while Defendants should have sought leave to file separate motions, that request may have been granted. At a minimum, Defendants should have requested additional pages for a single motion, which would have been granted. In either situation, the parties would be in essentially the same position as now with these two pending Motions. And waiting for all the briefing on those motions would add unnecessary time and expense only to end up at the same place. To expedite the disposition of summary judgment, therefore, the Court will accept the Motions ([Docs. 115; 116](#)).² But out of fairness to Plaintiffs, the Court extends the deadline for both Plaintiffs’ responses to fourteen days from today. To be clear, Plaintiffs must

² In the future, the Court will not be as lenient on this issue because the Local Rules and Middle District caselaw are clear. However, as explained, under the circumstances the Court accepts these Motions for the sake of efficiency.

respond to each summary judgment motion; and each response should follow the normal page limit (twenty pages each) or request additional pages, if necessary.

Accordingly, it is now

ORDERED:

1. Plaintiffs' Motion to Strike Defendants' Dual Summary Judgment Motions ([Doc. 118](#)) is **DENIED**.
2. Plaintiffs' Motion for Extension of Time to Respond to Defendants' Summary Judgment Motions Pending Ruling on Plaintiffs' Motion to Strike Defendants' Dual Summary Judgment Motions ([Doc. 119](#)) is **DENIED as moot**.
3. Plaintiffs' must **FILE** responses to Defendants' Motion for Partial Summary Judgment on RCRA ([Doc. 115](#)) and Defendants' Motion for Partial Summary Judgment on Plaintiffs' Individual State-Law Claims ([Doc. 116](#)) on or before **October 23, 2019**.

DONE and **ORDERED** in Fort Myers, Florida this 9th day of October, 2019.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record