

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**CHUKS IBEKWE and  
LINDA MONTGOMERY,**

**Plaintiffs,**

**v.**

**Case No. 8:12-cv-2355-T-30MAP**

**LIBERTY MUTUAL FIRE INSURANCE  
COMPANY,**

**Defendant.**

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**ORDER**

THIS CAUSE comes before the Court upon Defendant's Motion to Strike Certain Paragraphs of Plaintiffs' Amended Complaint (Dkt. 3) and Plaintiffs' Response to Defendant's Motion to Strike Certain Paragraphs of Plaintiffs' Amended Complaint (Dkt. 8). The Court, having considered the motion, response, and being otherwise advised of the premises, concludes that the motion to strike should be denied.

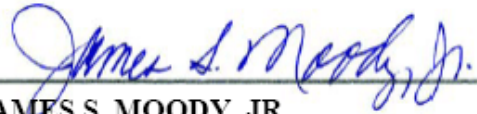
Federal Rule of Civil Procedure 12(f) allows a court to strike from a pleading "any redundant, immaterial, impertinent, or scandalous matter." However, motions to strike are disfavored and usually denied unless the allegations have no possible relation to the controversy and may cause prejudice to one of the parties. *Stapleton v. State Farm Fire & Cas. Co.*, 11 F. Supp. 2d 1344, 1345 (M.D. Fla. 1998).

Defendant argues that paragraphs 12-13 and 16-19 are irrelevant to the breach of contract claim and serve only to mislead and inflame the jury by reciting statutes and alleging facts that would serve as the basis for a bad faith action. However, the issues of relevancy are best decided with a factual record, not on the face of the pleadings. *Augustus v. Bd. of Public Instruction of Escambia Cnty., Fla.*, 306 F.2d 862, 868 (5th Cir. 1962) (“Partly because of the practical difficulty of deciding cases without a factual record it is well established that the action of striking a pleading should be sparingly used by the courts.” (quoting *Brown & Williamson Tobacco Corp. v. United States*, 201 F.2d 819, 822 (6th Cir. 1953)). Additionally, there is no prejudice to the Defendant because the complaint will not be submitted to the jury as evidence.

It is therefore ORDERED AND ADJUDGED that:

1. Defendant’s Motion to Strike Certain Paragraphs of Plaintiffs’ Amended Complaint (Dkt. 3) is DENIED.

**DONE** and **ORDERED** in Tampa, Florida on November 27, 2012.

  
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JAMES S. MOODY, JR.  
UNITED STATES DISTRICT JUDGE

**Copies furnished to:**  
Counsel/Parties of Record

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