

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

DENNIS W. THOMAS, )  
)  
Plaintiff, )  
)  
vs. )  
)  
GREGORY P. BRINKER, MARK RAND, )  
ELSIE S. TORRES, and )  
CITY OF INDIANAPOLIS, )  
)  
Defendants. )

No. 1:09-cv-01516-TWP-TAB


**ORDER DENYING PLAINTIFF’S MOTION TO STRIKE**

Before the Court is Plaintiff Dennis Thomas’s motion to strike Defendants’ partial motion to dismiss. [Docket No. 34.] Plaintiff argues that Defendants’ motion to dismiss repeats “almost verbatim” the arguments set forth in their previous motion to dismiss, which Defendants withdrew following Plaintiff’s amended complaint. [*Id.* at 1–2.] Defendants respond that generally under Federal Rule of Civil Procedure 12(f), motions to strike are employed only as a last resort, and the arguments set forth in their pending motion to dismiss are not entirely duplicative. [Docket No. 36.]

The Court agrees with Defendants. Generally, Rule 12(f) motions are disfavored, and Defendants’ recent motion to dismiss is not identical to their initial motion, as it removes arguments about Rule 8 standards and punitive damages. [Docket No. 16; Docket No. 32.] Moreover, Defendants withdrew their initial motion to dismiss in response to Plaintiff’s amended complaint [Docket No. 36 at 2], so the Court has not addressed their arguments. Thus,

the Court denies Plaintiff's motion to strike. [Docket No. 34.]

Dated: 07/20/2010



---

Tim A. Baker  
United States Magistrate Judge  
Southern District of Indiana

Copies to:

Amy L. Cueller  
THE CUELLER LAW OFFICE  
amy@cuellerlaw.com

Andrew R. Duncan  
RUCKELSHAUS KAUTZMAN BLACKWELL BEMIS & HASBROOK  
ard@rucklaw.com

John F. Kautzman  
RUCKELSHAUS KAUTZMAN BLACKWELL BEMIS & HASBROOK  
jfk@rucklaw.com

Shannon Lee Logsdon  
CITY OF INDIANAPOLIS, CORPORATION COUNSEL  
slogsdon@indygov.org

John C. Ruckelshaus  
RUCKELSHAUS KAUTZMAN BLACKWELL BEMIS & HASBROOK  
jcr@rucklaw.com