

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

CHRISTOPHER MUYLLE,)	
)	
Counter Claimant,)	
)	Case No. 1:11-cv-01598-TWP-DKL
vs.)	
)	
WINE & CANVAS DEVELOPMENT LLC,)	
)	
Counter Defendant.)	
)	
)	
CHRISTOPHER MUYLLE,)	
)	
Third Party Plaintiff,)	
)	
vs.)	
)	
TAMARA SCOTT, DONALD MCCRACKEN, and ANTHONY SCOTT,)	
)	
Third Party Defendants.)	
)	

ORDER ON MOTION TO STRIKE

This matter is before the Court on Counter Claimant Christopher Muylle’s (“Mr. Muylle”) Motion to Strike ([Filing No. 477](#)) Wine & Canvas Development LLC and Third Party Defendants Tamara Scott, Donald McCracken, and Anthony Scott’s (collectively “WNC Parties”) Response in Opposition to Muylle’s Fee Petition ([Filing No. 475](#)). Mr. Muylle requests that the Court strike WNC Parties’ response brief on the bases that the response was untimely and exceeded the page limit. For the following reasons, the Court **GRANTS** Mr. Muylle’s Motion to Strike.

Following a successful defense at trial and winning on his counterclaim for abuse of process, on December 12, 2014, Mr. Muylle filed his Petition for attorney fees under the Lanham

Act ([Filing No. 457](#)). The WNC Parties requested additional time to file their response, which the Court granted, ordering that the response be filed by January 15, 2015 ([Filing No. 471](#)). The WNC Parties requested an additional extension of time to file their response and specifically asked for a new deadline of January 19, 2015 ([Filing No. 472](#)). The Court granted this request and ordered WNC Parties to file their response to Mr. Muylle's fee petition on or before January 19, 2015 ([Filing No. 474](#)).

When the Court orders the filing of a brief or pleading on a specific date, the Rule 6 time computation provisions are irrelevant and do not apply. WNC Parties' counsel is well aware that because of electronic filing, one can file in federal court late at night, early in the morning, on weekends, or on legal holidays.

Instead of filing a timely response brief after two extensions of time, counsel to WNC Parties ignored the deadline and untimely filed the response brief on January 20, 2015 ([Filing No. 475](#)). In the response to Mr. Muylle's Motion to Strike, counsel to WNC Parties claims ignorance of the Federal Rules of Civil Procedure and the Local Rules of this Court. Counsel apologizes for his ignorance and disregard of the rules. But counsel's repeated disregard for and supposed ignorance of the rules is no excuse, and an apology does not allow counsel to continue to disregard the rules and court orders. The Court admonishes Mr. Davis for his untimely filings. Mr. Davis must meet his filing deadlines.

Not only did WNC Parties miss their deadline and file the response brief late, WNC Parties also filed a response brief that violated Local Rule 7-1(e)(1), which limits the length of response briefs to 35 pages. WNC Parties' response brief was 40 pages. "When a party ignores the page limits established by the local rules or by orders of the court, the court typically strikes the party's brief or simply strikes the excess pages." *In re Ready-Mixed Concrete Antitrust Litig.*, 261 F.R.D.

154, 161 (S.D. Ind. 2009).

Because WNC Parties ignored the local rule governing the length of response briefs and filed an oversized brief, the Court **GRANTS** Mr. Muylle's Motion to Strike WNC Parties' response brief. Therefore, [Filing No. 475](#) is stricken from the record. The Court grants leave to WNC Parties to file a belated response to Mr. Muylle's fee petition. The Court will accept the first 35 pages of the Amended Response ([Filing No. 479-6](#)) as WNC Parties' response, and it shall be deemed filed as of the date of this Entry.

SO ORDERED.

Date: 01/28/2015



Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

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