

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

THEODORE JOHNSON,

CIVIL ACTION

Plaintiff

VERSUS

NO. 13-6544

**SOCIAL SECURITY
ADMINISTRATION,**

SECTION "E"

Defendant

ORDER AND REASONS

This case arises out of Defendant's allegedly improper recovery of benefit overpayments from Plaintiff Theodore Johnson, who is proceeding pro se. Pursuant to the Magistrate Judge's order,¹ the parties filed cross-motions for summary judgment. Defendant's motion was filed several days after the date set by the Magistrate Judge's Order.² Plaintiff moved to strike Defendant's motion for summary judgment as untimely.³ The Magistrate Judge denied the motion to strike.⁴ Plaintiff now seeks review of the Magistrate Judge's order denying the motion to strike.⁵ Defendant has filed a response.⁶

Plaintiff contends that the motion to strike should have been granted because Defendant (1) failed to file an answer and (2) filed its motion for summary judgment late.⁷ First, Defendant filed its answer on February 26, 2014.⁸ Second, the Court finds

¹ R. Doc. 10.

² R. Doc. 15.

³ R. Doc. 16.

⁴ R. Doc. 17.

⁵ R. Doc. 18.

⁶ R. Doc. 20.

⁷ R. Doc. 18 at 1-2.

no error in the Magistrate Judge's conclusion that a motion to strike a slightly late dispositive motion is an extreme and inappropriate remedy. Plaintiff has not articulated any prejudice from the slight delay. And Plaintiff is entitled to the same flexibility; the Court would not strike his motion "if plaintiff had filed one day late."⁹

Accordingly, the appeal of the Magistrate Judge's order denying Plaintiff's motion to strike is **DENIED**.

New Orleans, Louisiana, this 24th day of June, 2014



SUSIE MORGAN
UNITED STATES DISTRICT JUDGE

⁸ R. Doc. 8.

⁹ R. Doc. 18 at 2.