

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

RUSS IVY

CIVIL ACTION

VERSUS

NO. 20-1475

JADE TRAN, ET AL.

SECTION: "B" (4)

ORDER & REASONS

Before the Court are defendants Jade Tran and XL REI LLC's motions to modify, reconsider, or vacate order deeming admissions (Rec. Docs. 47, 48) and to strike first amended complaint (Rec. Doc. 38, 41). Accordingly,

**IT IS ORDERED** that the defendants' motion to modify, reconsider, or vacate the order deeming admissions is **DENIED AS MOOT**. After this Court issued its order affirming the Magistrate Judge's Order on April 9, 2021, Rec. Doc. 43, the Magistrate Judge issued an order granting defendants' motion to undeem deemed admissions. Rec. Doc. 46. Therefore, defendants have received the relief sought in their motion and thus the motion is moot.

**IT IS FURTHER ORDERED** that the defendants' motion to strike plaintiff's first amended complaint is **DENIED**. This Court ordered plaintiff "to reconsider his complaint in order to avoid unwarranted duplication of claims and/or damages," and that "[t]his can be done by either stipulated partial dismissal or amendment of the complaint within fifteen (15) days." Rec. Doc. 24 at 10. Plaintiff amended his complaint clarifying "these theories of liability are pled in the alternative ... To the extent that

multiple theories are provided to the jury, the jury questionnaire will be crafted to ensure that no double recovery is allowed." Rec. Doc. 28 at 12. Moreover, Plaintiff explained "regardless of how many theories of liability he has plead in the alternative, Plaintiff seeks only a single recovery of his damages." *Id.* at 18. At this stage of litigation, plaintiff is allowed to explore alternative, mutually exclusive theories. See Fed. R. Civ. P. 8. Movant should have conserved limited resources in preparation for contemplated summary judgment proceedings. Further, to strike plaintiff's complaint when this Court already gave reasonably limited discretion to plaintiff to amend or supplement his complaint would lead to a needless waste of time and limited resources for all stakeholders, including this court.

New Orleans, Louisiana this 29th day of July, 2021



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SENIOR UNITED STATES DISTRICT JUDGE