

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

RASHED T. MUTHANA

CIVIL ACTION

VERSUS

NO. 21-1745

EAN HOLDINGS, LLC D/B/A
ENTERPRISE RENT A CAR

SECTION "B" (3)

ORDER AND REASONS

Before the Court are three motions: defendant's motion for extension of time to file a response (Rec. Doc. 9), motion to strike plaintiff's affidavit (Rec. Doc. 11), and motion to substitute Record Document 7-1 (Rec. Doc. 12).¹ Plaintiff responded in opposition to defendant's motion for extension of time to file a response (Rec. Doc. 20), but did not oppose defendant's other two motions. Defendant subsequently replied to plaintiff's response in opposition (Rec. Doc. 23). Accordingly,

IT IS ORDERED that defendant's motion for extension of time to file a response (Rec. Doc. 9) is **GRANTED**. Local Rule 7.5 of the Eastern District of Louisiana requires a party to oppose a motion no later than eight days before the noticed submission date. According to Local Rule 7.8, "upon certification by a moving party that there has been no previous extension of time to plead, and that the opposing party has not filed in the record an objection to an extension of time, on ex parte motion, the

¹ Plaintiff's motion to remand (Rec. Doc. 3) is also pending in this case.

court must allow one extension for a period of 21 days from the time the pleading would otherwise be due.”

Here, defendant certified that it had not sought a previous extension of time to plead. Rec. Doc. 9-1 at 3. Defendant also showed good cause for its request for extension by explaining that it needed more time to receive supporting documentation from its representatives. *Id.* at 2. Plaintiff provides no cogent reason for denying this extension. See Rec. Doc. 20. He claims that defendant did not follow the provisions of Local Rule 7.8, when indeed defendant did. See Rec. Doc. 9-1 at 2-3. Even worse, by opposing defendant’s motion, plaintiff denies defendant the common courtesy of a one- or two-day extension, without demonstrating any prejudice that an extension might provide, and then goes so far as to request his own extension to respond to defendant’s motion for extension of time. See Rec. Docs. 19-20. Plaintiff’s request for extension of time was filed even later than defendant’s. See Rec. Docs. 9, 19. The Court reminds plaintiff to be cognizant of conserving judicial resources going forward.

IT IS FURTHER ORDERED that defendant’s motion to substitute Record Document 7-1 (Rec. Doc. 12) is **GRANTED**. Record Document 7-1 contains an unsigned affidavit from one of defendant’s employees, and defendant now wants to substitute the unsigned affidavit with a signed one. Plaintiff did not submit an opposition to this motion. Thus, the attached affidavit (Rec. Doc. 12-2) is hereby

SUBSTITUTED for the affidavit filed with this Court on November 3, 2021 (Rec. Doc. 7-1).

IT IS FURTHER ORDERED that defendant's motion to strike (Rec. Doc. 11) is **GRANTED**. According to Rule 56(e) of the Federal Rules of Civil Procedure, "an affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated." FED. R. CIV. P. 56(e); *see also* FED. R. EVID. 602. Plaintiff submits an affidavit from his attorney stating "Enterprise is a tax paying business in Orleans Parish" and that both "Enterprise Rent A Car and Plaintiff" are both "citizens of the same state, the State of Louisiana." Rec. Doc. 3-4 at 2. Plaintiff, however, provides no evidence that his counsel has personal knowledge of these facts. See Rec. Doc. 3-4 at 2. Additionally, plaintiff does not oppose the instant motion to strike. Accordingly, plaintiff's affidavit (Rec. Doc. 3-4) is hereby **STRICKEN** from the record in the above-captioned matter.

New Orleans, Louisiana this 3rd day of December, 2021



SENIOR UNITED STATES DISTRICT JUDGE