

**UNITED STATES DISTRICT COURT**  
**MIDDLE DISTRICT OF LOUISIANA**

TAYLOR CARROLL

CIVIL ACTION

VERSUS

16-537-SDD-RLB

SGS NORTH AMERICA, INC.

**RULING**

This matter is before the Court on the *Motion for Expedited Hearing*<sup>1</sup> filed by Defendant, SGS North America, Inc. (“Defendant”) on Defendant’s *Motion to Strike the Motion to Dismiss the Third Party Complaint Asserted by SGS North America, Inc.*<sup>2</sup> filed by Plaintiff, Taylor Carroll, (“Plaintiff”). Plaintiff has filed an *Opposition*<sup>3</sup> to Defendant’s *Motion for Expedited Hearing*<sup>4</sup> and Defendant’s *Motion to Strike*.<sup>5</sup> For the following reasons, Defendant’s *Motions* are GRANTED.<sup>6</sup>

**I. PROCEDURAL BACKGROUND**

Plaintiff filed a *Motion to Dismiss the Third Party Complaint* on behalf of his wife Cindy Carroll.<sup>7</sup> The third-party complaint filed by the Defendant asserts claims against Cindy R. Carroll and E.T. International (“Acura of Baton Rouge”) – Plaintiff is not named in the third-party complaint.<sup>8</sup> Cindy Carroll separately filed her own *Motion to Dismiss for Failure to State a Claim*.<sup>9</sup>

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<sup>1</sup> Rec. Doc. 54.

<sup>2</sup> Rec. Doc. 51.

<sup>3</sup> Rec. Doc. 56

<sup>4</sup> Rec. Doc. 54.

<sup>5</sup> Rec. Doc. 53.

<sup>6</sup> Rec. Docs. 53 and 54.

<sup>7</sup> Rec. Doc. 51-1, p. 1.

<sup>8</sup> Rec. Doc. 48, p. 15.

<sup>9</sup> Rec. Doc. 52.

## II. LAW AND ANALYSIS

Plaintiff cites no controlling law which grants him standing to move for dismissal of a third party complaint in addition to his wife. Plaintiff's basis for moving is "that neither federal nor state law provided a right of indemnity to SGS under the circumstances of this case."<sup>10</sup> Plaintiff cites *James Talcott, Inc. v. Allahaban bank, Ltd.*<sup>11</sup> as a basis for standing to assert his motion. *Talcott* is factually distinguishable from the present case because the moving party did not seek to dismiss the third-party complaint on behalf of, and in addition to, the third-party plaintiff.<sup>12</sup>

Numerous federal district and appellate courts<sup>13</sup> have rejected Plaintiff's expansive interpretation of Rule 14 that "any party may move to strike the third-party claim."<sup>14</sup> As the United States District Court for the Middle District of Florida reasoned in *Essex Builders Group, Inc. v. Amerisure Insurance Co.*, "The Court cannot conceive how [Plaintiff] has standing to seek dismissal of [Defendant's] cross-claim against [Third-Party Plaintiff], given that the [Defendant's] Third-party Claim does not assert any claims against Plaintiff."<sup>15</sup> The Court agrees that "it is generally accepted that parties lack standing to seek dismissal of parties other than themselves."<sup>16</sup> Furthermore, assuming *arguendo* that Plaintiff had standing to move on behalf of his wife, Plaintiff's *Motion to Dismiss the Third Party Complaint* is redundant to the *Motion to Dismiss for Failure to*

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<sup>10</sup> Rec. Doc. 55, p. 4.

<sup>11</sup> 444 F.2d 451, 464 (5th Cir. 1971).

<sup>12</sup> *Id.*

<sup>13</sup> See *Bank v. Estate of Hayne*, 10-2634, 2012 WL 13027250 at \*2 (N.D. Al. March 31, 2012); *Qwest Corp v. Arizona Corp. Com'n.*, 08-2374, 2009 WL 3059127 at \*5 (D. Ariz. Sept. 23, 2009); *Martin v. Broadcast Music, Inc.*, 248 F.2d 530, 531 (9th Cir. 1957).

<sup>14</sup> Rec. Doc. 55, p. 2.

<sup>15</sup> 429 F.Supp.2d 1274, 1291 (M.D. Fla. Sept. 21, 2005).

<sup>16</sup> *E.E.O.C. v. Brooks Run Min. Co., L.L.C.*, 08-00071, 2008 WL 2543545 at \*2 (S.D. W. Va. June 23, 2008).  
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*State a Claim* filed by Cindy Carroll – the named Third-Party Plaintiff. Given that Plaintiff's motion is redundant, the Court, pursuant to Federal Rule of Civil Procedure 12(f), orders that Plaintiff's *Motion to Dismiss the Third Party Complaint* be stricken from the record.


### III. CONCLUSION

For the above stated reasons, Defendant's *Motion for Expedited Hearing*<sup>17</sup> and *Motion to Strike the Motion to Dismiss the Third Party Complaint Asserted by SGS North America, Inc.*<sup>18</sup> is hereby GRANTED.

It is further ordered that Plaintiff's *Motion to Dismiss the Third Party Complaint*<sup>19</sup> be stricken from the record in this case.

**IT IS SO ORDERED.**

Signed in Baton Rouge, Louisiana the 8<sup>th</sup> day of February, 2018.

  
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**JUDGE SHELLY D. DICK  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

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<sup>17</sup> Rec. Doc. 54.

<sup>18</sup> Rec. Doc. 53.

<sup>19</sup> Rec. Doc. 51.