

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

BONNIE THOMPSON : CIVIL ACTION NO.: 08-125
VERSUS : JUDGE JAMES T. TRIMBLE, JR.
GATEHOUSE MEDIA LOUISIANA : MAG. JUDGE KATHLEEN KAY
HOLDINGS, INC. and
NEWSLEADER, INC. d/b/a
BEAUREGARD DAILY NEWS
.....

MEMORANDUM IN OPPOSITION TO
MOTION TO STRIKE

 MAY IT PLEASE THE COURT:

The account given by Bonnie Thompson in her Affidavit was based on her own observation as well as her best description of the size of the hole at the time of the accident.

A Motion for Summary Judgment is no place to second guess the plaintiff’s depiction of the defect at the time of the accident, nor is a Motion for Summary Judgment a place for the Court to anoint Michael J. Frenzel as being an individual with superior knowledge as to a question of fact instead of a safety expert who has an opinion that drastically differs from the physical findings of Ms. Thompson.

Accordingly, it is prayed that the Court deny the Motion to Strike. However, it is noteworthy that the only case that was cited in support of the Motion to Strike is based on a State Court case dealing with an Affidavit involving speculation.

Compared to Bonnie Thompson’s Affidavit which contained her factual findings based on her own observations, there is no way to call her input in this matter “speculative”.

Respectfully Submitted:

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of September, 2008, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to: William H. Eckert by operation of the court's electronic filing system.

Respectfully submitted:

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