

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

SAINT LOUIS UNIVERSITY, )  
a Missouri benevolent corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
AVIS MEYER, )  
 )  
Defendant. )  
 )

Case No. 4:07-cv-01733

**MOTION TO STRIKE PLAINTIFF’S MEMORANDUM TO THE COURT  
REGARDING SUPPLEMENTAL AUTHORITY (d/e 51) AND ALTERNATIVELY  
DEFENDANT’S MOTION FOR LEAVE TO FILE DEFENDANT’S RESPONSE TO  
PLAINTIFF’S MEMORANDUM (d/e 51)**

COMES NOW, Defendant, Avis Meyer (“Meyer” or “Defendant”), by and through his attorneys of record, and hereby moves this Honorable Court to strike the Memorandum to the Court Regarding Supplemental Authority (“SLU’S Memo”)(d/e 51) of Plaintiff, Saint Louis University (“SLU” or “Plaintiff”). Alternatively, Defendant hereby moves the Court to permit Defendant to file a Reply Memorandum (Exhibit 1 attached hereto and incorporated by reference herein) so that Defendant can address these new assertions and to show why Plaintiff’s motion for sanctions for spoliation of evidence (d/e 36) should be denied. Defendant moves this Court to strike for the following reasons:

1. SLU has not sought leave of Court or the consent of Meyer to supplement SLU’s original Motion for Sanctions (d/e 36), and its Reply in Support of its Motion for Sanctions. (d/e 45).

2. The case of *Conner v. Sun Trust Bank*, 546 F. Supp. 2d 1360 (March 5, 2008, N.D. Ga. 2008), relied upon in SLU's Memo (d/e 51), is non-precedential and was available to SLU over four months prior to the filing SLU's Motion for Sanctions. (d/e 36).

3. SLU Memo (d/e 51) makes patently false statements, including that Meyer "wiped his hard drive clean numerous times" without any citation to the record.

4. SLU provides no reason or explanation whatsoever to justify tardily injecting non-precedential caselaw and patently false statements into the case.

5. SLU's supplemental authority and patently false statements in its Memo (d/e 51) are untimely, improper and unfairly prejudicial.

WHEREFORE, Defendant respectfully moves this Honorable Court to grant its motion and strike SLU'S Memo and grant Meyer all such other and further relief as this Court deems just under the circumstances. In the alternative, Meyer moves the Court to permit Defendant to file the attached Reply Memorandum.

Respectfully Submitted,

POLSTER, LIEDER, WOODRUFF & LUCCHESI, L.C.

By: *s/ Brian J. Gill*

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ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I hereby certify that on August 29, 2008 the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the following:

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