

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RONNOCO COFFEE, LLC,)
d/b/a RONNOCO BEVERAGE)
SOLUTIONS,)
)
Plaintiff,)
)
v.)
)
KEVIN CASTAGNA and)
JEREMY TORRES,)
)
Defendants.)

No. 4:21-CV-00071 JAR

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff Ronnoco’s Motion to Strike. (Doc. No. 21). Ronnoco moves this Court to strike and/or disallow Defendants’ reply in support of their motion to dismiss Ronnoco’s complaint as it was filed two days past the February 10, 2021 deadline ordered by the Court. Motions, briefs, memoranda, objections or affidavits are not pleadings and courts in this district have generally not permitted parties to attack such non-pleadings through motions to strike. See, e.g., Shea v. Peoples Nat. Bank, No. 4:11-CV-1415-CAS, 2013 WL 74374, at *1-2 (E.D. Mo. Jan. 7, 2013) (citing cases); Khamis v. Bd. of Regents, Se. Missouri State Univ., No. 1:09CV145RWS, 2010 WL 1936228, at *1 (E.D. Mo. May 13, 2010) (a memorandum in opposition “is not a pleading and cannot be attacked with a motion to strike”). Moreover, the Court finds that no party is prejudiced by the filing of Defendants’ reply two days out of time. Accordingly, Ronnoco’s motion to strike [21] is hereby **DENIED**.

In their reply, Defendants raise new issues concerning the corporate structure of Ronnoco and Trident. These issues were not addressed in the parties’ previous briefing because they relate

to trial testimony recently elicited in another trial in this Court. In light of these new assertions, the Court hereby **GRANTS** Ronnoco **seven (7) days from the date of this Order** to file any surreply to Defendants' reply.

Dated this 17th day of February, 2021.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE