

1 On February 13, 2009, Virgin Valley filed a complaint against defendants for damages
2 resulting from the leak of defendants' manufactured polyethylene pipe. Doc. #1. In response,
3 defendants filed a series of motions for partial summary judgment including the relevant motions
4 for partial summary judgment number 2 regarding punitive damages and number 3 regarding fraud.
5 Doc. ##126, 128. Virgin Valley opposed both motions. Doc. ##145, 147. Defendants filed reply
6 briefs in which they attached the Seiler affidavits. *See* Doc. #161, Exhibit M; Doc. #162, Exhibit P.
7 Thereafter, Virgin Valley filed the present motion to strike the Seiler affidavits arguing that the
8 affidavits provide new evidence that had not been previously disclosed. *See* Doc. #166.

9 **II. Discussion**

10 The court may strike a filing for "any redundant, immaterial, impertinent, or scandalous
11 matter." FED. R. CIV. P. 12(f). Virgin Valley argues that the Seiler affidavits are impertinent
12 documents because they provide new evidence on behalf of the defendants that was not provided
13 during discovery. Therefore, Virgin Valley argues that the affidavits should be struck from the
14 record and not considered by the court in addressing the motions for partial summary judgment.

15 The court has already considered and denied the motions for summary judgment. *See*
16 Doc. #174. Thus, the court finds it unnecessary to strike the Seiler affidavits. Therefore, the court
17 shall deny Virgin Valley's motion to strike as moot.

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19 IT IS THEREFORE ORDERED that plaintiff's motion to strike (Doc. #166) is DENIED as
20 moot.

21 IT IS SO ORDERED.

22 DATED this 13th day of March, 2011.



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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE