

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**HARTFORD CASUALTY INSURANCE CO.,
an Indiana corporation,**

Plaintiff,

v.

No. 2:07-cv-2405-BBD-cgc

**CALCOT, LTD., a California corporation; and
GLOBAL COTTON RECOVERY, LLC,
a Tennessee limited liability company,**

Defendants.

**ORDER DENYING MOTION TO STRIKE
DEFENDANTS' SUPPLEMENTAL RESPONSE**

Before the Court is Plaintiff's Motion to Strike Defendants' Supplemental Response (D.E. #157) to Plaintiff's Motion to Set its Previously Filed Post-Judgment Motion Before the Court (D.E. #149). Plaintiff contends that (1) Defendants had already filed a Response brief on October 20, 2009; (2) the Local Rules do not allow for a Supplemental Response without leave of court; (3) Defendants failed to confer prior to filing their Supplemental Response; and (4) the Supplemental Response is untimely under Local Rule 7.2(a)(2). The underlying motion was referred to United States Magistrate Judge Charmiane G. Claxton for determination.

Rule 5(b)(2)(E) and Rule 6(d) of the Federal Rules of Civil Procedure and Local Rule 6.1 and 7.2(a)(2) require that a response to a motion be filed within fifteen days of the response plus an additional three days because the motion was electronically served. Thus, the Court finds that the Supplemental Response was timely filed.

Local Rule 7.2(a)(1)(B) sets forth the requirements for consultation among counsel, but only requires the filing of a Certificate of Consultation with the filing of a motion. Thus, the Local Rules do not require a separate consultation upon the filing of a response to the motion, and the Court does not find that the Supplemental Response should be stricken for failure to consult.

Finally, Local Rule 7.2 does not discuss the filing of a Supplemental Response, and Plaintiff correctly note that it is the preferred practice to file one response without further amendment or supplement. However, as the Supplemental Response was timely filed and is not otherwise in violation of the Federal Rules of Civil Procedure or Local Rules, the Court finds that Plaintiff's Motion to Strike should be DENIED.

IT IS SO ORDERED this 29th day of October, 2009.

s/ Charmiane G. Claxton
CHARMIANE G. CLAXTON
UNITED STATES MAGISTRATE JUDGE