

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
MISSOURI, CENTRAL DIVISION

Searra Priolo v. EquipmentShare.com Inc.

Priolo · No. 2:25-cv-04013-MDH · Decided June 25, 2026

SUMMARY

The United States District Court for the Western District of Missouri denied EquipmentShare.com Inc.’s motion to strike Plaintiff Searra Priolo’s declaration and portions of her summary-judgment factual submissions. The court held that motions for summary judgment, supporting memoranda, declarations, and statements of uncontroverted facts are not pleadings subject to a motion to strike under Federal Rule of Civil Procedure 12(f). The court constructively filed Priolo’s revised opposition, withdrew the original opposition, and permitted the defendant to file a reply addressing deficiencies and additional statements of material fact.

CASE DETAILS

COURT	United States District Court for the Western District of Missouri, Central Division
WRITING FOR THE COURT	Douglas Harpool
JURISDICTION	United States District Court for the Western District of Missouri, Central Division
DECIDED	June 25, 2026
DOCKET	2:25-cv-04013-MDH
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved to strike the plaintiff's declaration, portions of her factual statements and responses to the defendant's statement of uncontroverted material facts, and additional statements of uncontroverted material facts in connection with the defendant's motion for summary judgment.
STANDARD OF REVIEW	A motion to strike is governed by Federal Rule of Civil Procedure 12(f) and is properly directed only to material contained in pleadings. The district court has considerable discretion in applying its local rules.
PRECEDENTIAL VALUE	unpublished district court order

PARTIES

Searra Priolo v. EquipmentShare.com Inc.

TOPICS

civil procedure

summary judgment

pleadings

ada / disability

retaliation

PRACTICE AREAS

civil procedure

employment law

disability discrimination

age discrimination

retaliation

QUESTIONS PRESENTED

1. Whether a motion to strike under Federal Rule of Civil Procedure 12(f) may be used to attack a declaration, summary-judgment opposition, responses to statements of uncontroverted facts, or additional statements of uncontroverted facts.
2. Whether the court should constructively file plaintiff's revised opposition to summary judgment and permit defendant to respond under the applicable local rule.

HOLDINGS

1. A motion to strike under Federal Rule of Civil Procedure 12(f) is not the proper vehicle for challenging a declaration, a motion for summary judgment, an opposition memorandum, or statements of uncontroverted facts because those materials are not pleadings.
2. The court may exercise its discretion to constructively file plaintiff's revised opposition to summary judgment, withdraw the original opposition, and permit defendant to respond to the revised filing.

KEY QUOTATIONS

"A motion to strike is properly directed only to material contained in pleadings."

"However, a motion to strike is the improper vehicle to bring these requests."

FACTUAL BACKGROUND

Searra Priolo worked remotely for EquipmentShare.com Inc. as a senior recruiter from July 2023 until her termination in February 2024. She alleged that she complained about discriminatory hiring practices involving disabilities and age, including the use of a DISC assessment and instructions concerning candidate scores. She claimed that her termination for alleged insubordination was pretextual retaliation. The order addressed only the parties' summary-judgment filings and the defendant's motion to strike them.

PROCEDURAL HISTORY

Plaintiff brought claims for retaliation under the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the Missouri Human Rights Act. Defendant moved to strike materials submitted in opposition to summary judgment and asked the court to deem certain facts admitted. The court denied the motion to strike, constructively filed plaintiff's revised opposition, withdrew the original opposition, and granted defendant leave to respond to the revised materials.

DISPOSITION

other

CASES CITED

- Khamis v. Bd. of Regents, Se. Mo. State Univ., No. 1:09-CV-145-RWS, 2010 WL 1936228, at *1 (E.D. Mo. May 13, 2010)
- Mecklenburg Farm, Inc. v. Anheuser-Busch, Inc., No. 4:07-CV-1719-CAS, 2008 WL 2518561, at *1 (E.D. Mo. June 19, 2008)
- Luer v. St. Louis County, Missouri, No. 4:17-CV-00767-NAB, 2018 WL 6064862, at *13 (E.D. Mo. Nov. 19, 2018), aff'd in part, rev'd in part and remanded sub nom. Luer v. Clinton, 987 F.3d 1160 (8th Cir. 2021)
- Shea v. Peoples Nat. Bank, No. 4:11-CV-1415-CAS, 2013 WL 74374, at *1-*2 (E.D. Mo. Jan. 7, 2013)
- Khamis, 2010 WL 1936228, at *1
- Milk Drivers Local Union No. 387 v. Roberts Dairy, 219 F.R.D. 151, 152 (S.D. Iowa 2003)
- R.A.D. Servs. LLC v. State Farm Fire & Cas. Co., 60 F.4th 408, 412 (8th Cir. 2023)
- Buffets, Inc. v. Leischow, 732 F.3d 889, 895 (8th Cir. 2013)

OPINION

Priolo

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT FOR THE

WESTERN DISTRICT OF MISSOURI

CENTRAL DIVISION

SEARRA PRIOLO,)

) Plaintiff,)) vs.) Case No.: 2:25-cv-04013-MDH)

EQUIPMENTSHARE.COM INC.,)

) Defendant.)

ORDER

Before the Court is Defendant EquipmentShare.com Inc.'s ("EquipmentShare") Motion to Strike Plaintiff's Declaration and Other Inadmissible Portions of her Factual Statements and Responses. (Doc. 31). The Defendant filed Suggestions in Support, Id., Plaintiff filed Suggestions in Opposition (Doc. 33) and the Defendant filed a reply. (Doc. 34). The motion is now ripe for adjudication on the merits. For the reasons stated herein, the Defendant's Motion to Strike is DENIED.

BACKGROUND

This case arises from an alleged violation of the Americans with Disabilities Act of 1990 ("ADA"), the Age Discrimination in Employment Act ("ADEA") and the Missouri Human Rights Act ("MHRA"). Plaintiff was employed by Defendant as a remote worker and performed work for Defendant in Monmouth County, New Jersey. The Defendant is a for profit corporation with its

principal office address in Columbia, Missouri. On or about July 31, 2023 Plaintiff was hired by Defendant as a senior recruiter. Plaintiff alleges that at all relevant times, she met or exceeded all of Defendant's legitimate performance expectations. In or about November 2023, Plaintiff alleges she engaged in a protected activity when she raised complaints to Defendant that its general manager's hiring practices were discriminatory. Plaintiff complained that the Dominance, Influence, Steadiness, and Conscientious ("DISC") assessment used in the hiring process pressured individuals to disclose disabilities and/or resulted in lower scores for individuals with disabilities, thereby making them less hireable. Plaintiff alleges that she made continuous attempts to bring attention to these discriminatory hiring practices in weekly meetings. Plaintiff further alleges that around this time, she had been instructed not to hire a particular candidate because he was deemed "too old" by Defendant. On or about January 18, 2024, Plaintiff's supervisor allegedly told her to falsify a DISC score for a lateral general manager candidate. On or about January 25, 2024, Plaintiff again explicitly reported her concerns regarding Defendant's hiring practices, alleging that individuals were being scored lower due to both age and disabilities. Plaintiff alleges that despite this, Defendant's manager condoned and enforced the rejection of said candidate. Plaintiff alleged that a week before her eventual termination, she suggested to her manager that Defendant should disclose its assessment practices in job postings to maintain compliance with hiring transparency. On or about February 16, 2024 the Defendant terminated her employment for alleged insubordination. However, Plaintiff alleges that Defendant was not able to explain how she had been insubordinate and instead claims that Defendant's stated reason was a pretext for discrimination. Plaintiff's First Amended Complaint ("Complaint") alleges four counts: Count I - ADA Retaliation; Count II - ADEA Retaliation; Count III - MHRA - Retaliation (Age); and Count IV - MHRA - Retaliation (Disability). The Defendant brings its current motion seeking to strike Plaintiff's: (1) Declaration; (2) responses as to Statement of Uncontroverted Material Facts ("SUMF") ¶¶ 9, 12, 13, 16, 21, 27, 28, 32, 33 and 34; and (3) additional SUMF. The Defendant further asks this Court to admit Defendant's SUMF ¶¶ 1-2, 4-8, 14-15, 17-20, 22-26, 29-31, and 36-37 as Plaintiff has failed to admit or controvert those SUMFs.

STANDARD

Rule 12(f) of the Federal Rules of Civil Procedure provides that a "court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). "A motion to strike is properly directed only to material contained in pleadings." *Khamis v. Bd. of Regents, Se. Mo. State Univ.*, No. 1:09-CV-145-RWS, 2010 WL 1936228, at *1 (E.D. Mo. May 13, 2013) (quoting *Mecklenburg Farm, Inc. v. Anheuser-Busch, Inc.*, No. 4:07-CV-1719-CAS, 2008 WL 2518561, at *1 (E.D. Mo. June 19, 2008)). Rule 7(a) defines "pleadings" as a complaint, an answer to a complaint, an answer to a counterclaim, an answer to a crossclaim, a third-party complaint, and if the court orders one, a reply to an answer." Fed. R. Civ. P. 7(a). Neither a motion for summary judgment, nor its accompanying memorandum in support, nor the attached statement of uncontroverted facts is a pleading, and courts in this

district have generally not permitted parties to attack such non-pleadings through motions to strike. *Luer v. St. Louis Cnty.*, Missouri, No. 4:17-CV-00767-NAB, 2018 WL 6064862, at *13 (E.D. Mo. Nov. 19, 2018), *aff'd in part, rev'd in part and remanded sub nom. Luer v. Clinton*, 987 F.3d 1160 (8th Cir. 2021); See, e.g., *Shea v. Peoples Nat. Bank*, No. 4:11-CV-1415-CAS, 2013 WL 74374, at *1 and

*2, (E.D. Mo. Jan. 7, 2013) (citing cases); *Khamis*, 2010 WL 1936228, at *1 (the document attached to the memorandum in opposition “is not a pleading and cannot be attacked with a motion to strike”); see also *Milk Drivers Local Union No. 387 v. Roberts Dairy*, 219 F.R.D. 151, 152 (S.D. Iowa 2003) (“Pleadings include complaints, answers, replies to counterclaims, answer to cross-claims, third-party complaints, and third-party answers. Therefore, a motion to strike a motion for summary judgment is inappropriate and should be denied.”) (internal citations omitted; collecting cases).

DISCUSSION

The Defendant raises arguments as to why the Court should strike Plaintiff’s: (1) Declaration; (2) responses as to SUMF ¶¶ 9, 12, 13, 16, 21, 27, 28, 32, 33 and 34; and (3) additional SUMF. The Defendant further asks this Court to admit Defendant’s SUMF ¶¶ 1-2, 4-8, 14-15, 17- 20, 22-26, 29-31, and 36-37 as Plaintiff has failed to admit or controvert those SUMFs. However, a motion to strike is the improper vehicle to bring these requests. As discussed above in the legal standard, Plaintiff’s Suggestions in Opposition to Defendant’s Motion for Summary Judgment is not a pleading within the meaning of the Federal Rules of Civil Procedure and therefore are not properly attacked by means of a motion to strike. Among the arguments raised by the Defendant in its instant motion is the issue of whether Plaintiff’s original Suggestions in Opposition to Defendant’s Motion for Summary Judgment complies with the United States District Court for the Western District of Missouri Local Rule (“Local Rule”) 56.1. The Plaintiff concedes that its original Suggestions in Opposition do not adhere to Local Rule 56.1(b)(2) and have filed Revised Suggestions in Opposition to Defendant’s Motion for Summary Judgment correcting those deficiencies. As the Court has considerable discretion in applying its local rules, the Court will constructively file Plaintiff’s Revised Suggestions in Opposition to Defendant’s Motion for Summary Judgment (Doc. 33-1) and will withdraw Plaintiff’s original Suggestions in Opposition to Defendant’s Motion for Summary Judgment. (Doc. 29). See *R.A.D. Servs. LLC v. State Farm Fire & Cas. Co.*, 60 F.4th 408, 412 (8th Cir. 2023) (quoting *Buffets, Inc. v. Leischow*, 732 F.3d 889, 895 (8th Cir. 2013) (“The district court has considerable discretion in applying its local rules.”)) The issues raised by the Defendant in its Motion to Strike Plaintiff’s Declaration and Other Inadmissible Portions of her Factual Statements and Responses may have merit, but these are issues better considered during the Court’s review of the summary judgment materials themselves and not through a motion to strike. The Court will grant Defendant leave to file a response to Plaintiff’s Revised Suggestions in Opposition of Summary Judgment in order to admit or controvert Plaintiff’s additional SUMFs and to direct the Court’s attention to the general or

specific deficiencies it perceives within Plaintiff's Revised Suggestions in Opposition.

CONCLUSION

For the reasons stated, the Defendant's Motion to Strike Plaintiff's Declaration and Other Inadmissible Portions of her Factual Statements and Responses is DENIED. Plaintiff's Revised Suggestions in Opposition to Defendant's Motion for Summary Judgment (Doc. 33-1) is hereby constructively filed and Plaintiff's original Suggestions in Opposition to Defendant's Motion for Summary Judgment is hereby withdrawn. (Doc. 29). The Defendant may file a reply to Plaintiff's Revised Suggestions in Opposition admitting or controverting Plaintiff's additional SUMF and directing the Court's attention to the general or specific deficiencies it perceives within Plaintiff's Revised Suggestions in Opposition. The Defendant will file its reply within two weeks of the date of this Order. IT IS SO ORDERED. Date: June 25, 2026 /s/ Douglas Harpool_____

DOUGLAS HARPOOL

UNITED STATES DISTRICT JUDGE