

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

A.F. v. G6 Hospitality, LLC

A.F. · No. Civ. No. 23-879 KG/GBW · Decided January 30, 2026

SUMMARY

The United States District Court for the District of New Mexico denies Defendant’s motion to strike Plaintiff’s motion to reopen discovery. The Court concludes that Federal Rule of Civil Procedure 12(f) applies to pleadings, not motions, and states that it will consider the timeliness of the discovery motion when deciding whether to grant it.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	January 30, 2026
DOCKET	Civ. No. 23-879 KG/GBW
DISPOSITION	denied
PROCEDURAL POSTURE	Defendant moved to strike Plaintiff’s motion to reopen discovery under Federal Rule of Civil Procedure 12(f), arguing that the motion violated court orders and Rule 6(b).
STANDARD OF REVIEW	The court applied the text of Federal Rule of Civil Procedure 12(f) and exercised discretion in determining whether to strike the challenged filing.
PRECEDENTIAL VALUE	unknown

TOPICS

- discovery dispute
- pleadings
- civil procedure

PRACTICE AREAS

- civil procedure
- discovery

QUESTIONS PRESENTED

1. Whether Federal Rule of Civil Procedure 12(f) authorizes the court to strike a motion to reopen discovery.

2. Whether the court should strike the motion to reopen discovery based on alleged untimeliness under Rule 6(b) and violations of prior court orders.

HOLDINGS

1. Federal Rule of Civil Procedure 12(f) applies only to material contained in a pleading, and a motion to reopen discovery is not a pleading under Rule 7(a).
2. Even assuming discretion to strike material outside a pleading, the court declined to strike the motion because striking is a drastic and generally disfavored remedy, and Defendant had not shown that striking was warranted.

KEY QUOTATIONS

“By its express language, Rule 12(f) only applies to material contained in a “pleading.””

“Striking is a “drastic remedy” and motions to strike are “generally are disfavored.””

FACTUAL BACKGROUND

Plaintiff filed a motion to reopen discovery. Defendant sought to strike that motion, contending that it violated prior court orders and the time requirements of Rule 6(b). The court concluded that the motion to reopen discovery was not a pleading and therefore was not subject to Rule 12(f), and alternatively declined to strike it even assuming authority to do so.

PROCEDURAL HISTORY

Plaintiff moved to reopen discovery. Defendant moved to strike that motion, asserting violations of prior court orders and Rule 6(b). After full briefing, the district court denied the motion to strike and directed Defendant to respond to the motion to reopen discovery, while reserving the timeliness issue for consideration when deciding the underlying motion.

DISPOSITION

denied

CASES CITED

- Estate of Anderson v. Denny’s Inc., 291 F.R.D. 622, 631, 634 (D.N.M. 2013)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO A.F., Plaintiff, v. Civ. No. 23-879 KG/GBW G6 HOSPITALITY, LLC, Defendant. ORDER DENYING MOTION TO STRIKE THIS MATTER comes before the Court on Defendant’s Motion to Strike Plaintiff’s Motion for Discovery to be Reopened. Doc. 172.

In its Motion, Defendant argues that Plaintiff's Motion for Discovery to be Reopened (doc. 170) should be struck for violating Court Orders (see docs. 160, 165) and Rule 6(b). See doc. 172 at 1; Fed. R. Civ. P. 6(b)(1)(A).

The matter has been fully briefed. See docs. 172, 174, 175. Being fully advised, the Court will DENY the motion. Under Federal Rule of Civil Procedure 12(f), a "court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). By its express language, Rule 12(f) only applies to material contained in a "pleading." Pleadings are defined in Rule 7 and do not include a motion to reopen discovery.

See Fed. R. Civ. P. 7(a). This Court has found that "[o]nly material included in a 'pleading' may be the subject of a motion to strike, and courts have been unwilling to construe the term broadly. Motions, briefs [or] memoranda, objections, or affidavits may not be attacked by the motion to strike." Estate of Anderson v. Denny's Inc., 291 F.R.D. 622, 634 (D.N.M.).

2013) (citation omitted). Even assuming the Court has the discretion to strike material not contained in a pleading, the Court declines to do so here. Striking is a "drastic remedy" and motions to strike are "generally are disfavored." Id. at 631 (citation omitted). While Plaintiff's Motion could very well be considered untimely under Rule 6(b), Defendant has not shown that the Motion should be stricken on this basis.

The Court will consider the timeliness of Plaintiff's Motion when determining whether it should be granted. IT THEREFORE ORDERED that Defendant shall file a response to Plaintiff's Motion for Discovery to be Reopened (doc. 170) no later than Monday, February 9, 2026. Defendant should limit its response to issues unrelated to timeliness as the Court has been sufficiently briefed on that issue.

The Court will consider the timeliness of the Motion as a potential basis for denial when the matter is fully briefed. CHIEF UNITED STATES MAGISTRATE JUDGE