

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

MARK KEATON,)
)
Plaintiff,)
v.) No. 1:12-cv-0641-SEB-MJD
)
DAVE HANNUM, et al.,)
)
Defendants.)

Entry Discussing Motions to Strike and For Sanctions

I.

Motions to strike defenses from an answer are generally disfavored because they tend to only delay the proceedings. *Heller Financial, Inc. v. Midwhey Powder Co., Inc.*, 883 F.2d 1286, 1294 (7th Cir. 1989). “Affirmative defenses will be stricken only when they are insufficient on the face of the pleadings.” *Id.* “Ordinarily, defenses will not be struck if they are sufficient as a matter of law or if they present questions of law or fact.” *Id.* “Rule 12(f) motions are generally viewed with disfavor because striking a portion of a pleading is a drastic remedy and because it is often sought by the movant simply as a dilatory tactic.” *Waste Mgmt. Holdings, Inc. v. Gilmore*, 252 F.3d 316, 347 (4th Cir. 2001)(internal citation omitted).

The plaintiff has filed two motions to strike. The first such motion seeks to strike the second affirmative defense lodged by defendants Hannum and Slone, that “plaintiff’s damages may be further limited pursuant to the Indiana Tort Claims Act.” Plaintiff argues that his claims against these defendants arise under section 1983, not state law, and that therefore this defense is without merit.

The second affirmative defense is not frivolous. The allegations in the complaint could support a state law claim for false arrest even if not labeled as such in the amended complaint. Therefore, the plaintiff’s motion to strike the second affirmative defense of defendants Hannum and Slone [22] is **denied**.

The plaintiff’s second motion seeks to strike defenses 3, 4, 5, 8, 9, and 10 from defendant Zook’s amended answer. Although plaintiff plainly disagrees with these defenses on the merits, they are not legally insufficient nor is the drastic remedy requested otherwise warranted. The plaintiff’s second motion to strike [28] is **denied**.

II.

The plaintiff's motion for imposition of Rule 11 sanctions [30] is meritless and therefore **denied**.

III.

The motion to strike portions of plaintiff's affidavit in support of his motion for sanctions, filed by defendant Zook [39], is **denied as moot**.

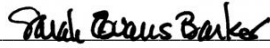
IT IS SO ORDERED.

Date: 11/01/2012

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SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana