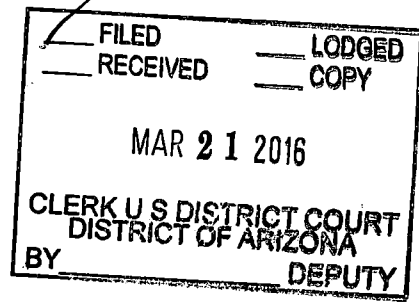


Brian Edward Malnes  
2157 West Alaska Avenue  
Flagstaff, Arizona, 86001  
928-774-4580



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

|                                  |   |  |
|----------------------------------|---|--|
| Brian Edward Malnes,             | ) | <b>CV-16-08008-PCT-GMS</b>                   |
|                                  | ) |  |
|                                  | ) | <b>MOTION TO STRIKE</b>                      |
| Plaintiff <i>Pro se</i> ,        | ) | <b>DEFENDANTS' IMPROPER FILING [Doc #24]</b> |
|                                  | ) |  |
| vs.                              | ) |  |
|                                  | ) |  |
|                                  | ) |  |
| State of Arizona, Michele Reagan | ) |  |
|                                  | ) |  |
| Defendants.                      | ) |  |
|                                  | ) |  |
|                                  | ) | <u><b>ORAL ARGUMENT REQUESTED</b></u>        |

Brian Edward Malnes (Plaintiff) comes before the Court to file a "Motion to Strike Defendants' Improper Filing [Doc #24]." The Defendants have appeared before this Court to file Document 24, "Defendants' Response to Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction," which failed to be filed within the fourteen (14) day time set forth by the Local Rules of this Court. As such, the Plaintiff requests the Court to Strike the Defendants' Document 24 because it is not permitted under the time restraint imposed by Local Rule 7.2(c). This Motion to Strike conforms to LRCiv 7.2(m)(1), "or if it seeks to strike any part of a filing or submission on the ground that it is prohibited (or not authorized) by a statute, rule, or court order."

According to Local Rule 7.2(c):

**“Responsive Memorandum.** The opposing party shall, unless otherwise ordered by the Court and except as otherwise provided by Rule 56 of the Federal Rules of Civil Procedure, and Rules 12.1 and 56.1, Local Rules of Civil Procedure, have fourteen (14) days after service in a civil or criminal case within which to serve and file a responsive memorandum.”

The Plaintiff’s filing [Doc. 18] to which the Defendants are responding was filed on 3/1/2016. And the Defendants filed their response [Doc. 24] on 3/17/2016, thus the filing failed to meet the deadline set by Local Rule. Local Rule clearly states the Defendants had 14 days to file.

Time computation for the filing of motions is discussed in Fed. R. Civ. P. Rule 6 (1)(A-C), which states:

(1) *Period Stated in Days or a Longer Unit.* When the period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.”

As such, the deadline to respond to the Plaintiff’s filing was 3/15/2016, which makes Document 24 two days late, following the deadline imposed by Local Rule and the Fed. R. Civ. P.

1           THEREFORE the Plaintiff requests the Court to strike the Defendants' improper filings  
2 Documents 24 as it fails to conform to the Local Rule's time restriction. As always the Plaintiff  
3 requests oral arguments.  
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9           Dated this 17<sup>th</sup> day of March 2016.  
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14           Brian Edward Malnes

15           2157 W. Alaska Ave.

16           Flagstaff, AZ 86001

17           928-774-4580

18           malnes@me.com

19           Plaintiff, *Pro se*  
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