

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Aimee Maddonna,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 6:19-cv-03551-JD
	)	
United States Department of Health and	)	
Human Services, et al.,	)	
	)	
Defendants.	)	
	)	

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**DEFENDANTS HENRY McMASTER’S AND MICHAEL LEACH’S  
MOTION TO STRIKE PLAINTIFF’S STATEMENT OF UNDISPUTED MATERIAL FACTS**

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**MOTION TO STRIKE**

On November 21, 2022, Plaintiff filed—in addition to her Motion for Summary Judgment (ECF No. 110) and her supporting memorandum (ECF No. 110-1)—a separate 14-page statement of purportedly undisputed material facts (ECF No. 110-2). Because a separate statement of facts is not permitted by either this Court’s Local Civil Rules or the Federal Rules of Civil Procedure, Plaintiff’s combined memorandum and statement total 47 pages, well exceeding this Court’s 35-page limit. The Court should, therefore, strike Plaintiff’s statement and memorandum and require Plaintiff to file, within five days, a memorandum that complies with all applicable rules. *Cf.* Local Civ. Rule 5.06 & n.4 (D.S.C.). Prior to filing this Motion, counsel for State Defendants’ conferred with Plaintiff’s counsel pursuant to Local Civil Rule 7.02, but the parties were unable to resolve this matter.

Local Civil Rule 7.05(B)(1) limits the length of memoranda accompanying summary judgment motions to 35 pages (absent leave of the Court). This Court’s rules also require the inclusion of a “statement of facts” *within* the memorandum, *id.* at 7.05(A)(2) & (4), and do not permit a party to attach a separate statement of facts, *id.* at 7.05(C) (permitting only exhibits and unpublished opinions as attachments). Nor do the Federal Rules of Civil Procedure permit otherwise. *See* Fed. R. Civ. P. 56. Plaintiff’s memorandum and her reliance on an external recitation of facts are contrary to these requirements.

In addition to violating this Court’s rules, Plaintiff’s reliance on a supplemental 14-page recitation of the facts prejudices Defendants. By housing her statement of facts in a separate document, Plaintiff filed what amounts to a 47-page memorandum in support of her Motion. The resulting harm is twofold. First, it unfairly tilts the playing field in Plaintiff’s favor by allowing her to assert more facts, arguments, and authorities than could the State Defendants, and by allowing her to expound on them more fully than could the State Defendants in their own

memorandum (even after accounting for the five-page extension sought and received by State Defendants). Second, State Defendants will have only 35 pages in their opposition to respond to Plaintiff's lengthy arguments and characterizations of the factual record.

If left uncorrected, Plaintiff's approach sets a precedent and charts a path by which litigants may, in the future, feel at liberty to circumvent the Rules without fear of correction. This Court has not in the past encouraged such tactics, and this Court should not do so now. *See Naji v. Fluor Fed. Servs., LLC*, No. 6:19-1774-HMH-JDA, 2021 WL 1731759, \*9 n.9 (D.S.C. May 3, 2021) (disapproving sternly of a party's "abuse" and "excessive" use of "substantive footnotes to circumvent the briefing page limits set out by Local Rule 7.05"); *Reese v. S.C. Dep't of Mental Health*, No. 3:16-3491-JFA, 2018 WL 4677714, \*5 (D.S.C. Sept. 28, 2018) (affirming the Magistrate Judge's ruling striking the pages of a memorandum that exceeded the 35-page limit set by Local Civil Rule 7.05); *see also Iota Xi Chapter of Sigma Chi Fraternity v. Patterson*, 566 F.3d 138, 149–50 (4th Cir. 2009) (affirming the District Court's ruling striking the pages of a filing that exceeded the page limit set by the Local Civil Rules of the Eastern District of Virginia); *Columbus-America Discovery Group v. Atlantic Mut. Ins. Co.*, 56 F.3d 556, 574 n.23 (4th Cir. 1995) (striking nearly half of a 47-page filing because it exceeded the page limits set by the relevant court rule).

Accordingly, State Defendants ask that this Court require Plaintiff to file within five days a compliant memorandum in support of her Motion for Summary Judgment without reliance on a supplemental statement of facts and without adding new arguments or making substantive changes to her existing arguments. Prior to filing this Motion, State Defendants' counsel conferred with Plaintiff's counsel, as required by Local Civil Rule 7.02, but the parties were unable to come to an agreement.

**CONCLUSION**

For the reasons above, the Court should grant State Defendants' Motion and require Plaintiff to refile a memorandum that complies with the rules. Further, if upon the Court's resolution of this Motion, the refiling of Plaintiff's Memorandum occurs within 10 days before January 23, 2023 (the deadline for State Defendants' Opposition to Plaintiff's Motion for Summary Judgment), State Defendants request that the deadline for their Opposition be adjusted to fall 14 days after the refiling of Plaintiff's corrected, compliant Memorandum.

Respectfully submitted

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December 19, 2022  
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