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IN THE THIRD DISTRICT COURT OF THE STATE OF UTAH

MARK CHRISTOPHER TRACY, dba
EMIGRATION CANYON HOME OWNERS
ASSOCIATION,

Petitioner,

vs.

SIMPLIFI COMPANY, a Utah Corporation;
ERIC HAWKES, an individual; and
JENNIFER HAWKES, an individual,

Respondents.

**OBJECTION TO MOTION TO STRIKE
OBJECTION TO REPLY MEMORADUM**

Case No.: 200905123

Judge: Robert P. Faust

Under Rule 7 (f) of Utah Rules of Civil Procedure (“URCP”), Mark Christopher Tracy (“Mr. Tracy”) dba Emigration Canyon Home Owners Association (“The ECHO-Association”) hereby submits this Objection to the Motion to Strike the Objection to the Reply Memorandum filed by the Simplifi Company (“Simplifi”), Eric Hawkes (“Mr. Hawkes”) and Jennifer Hawkes (“Ms. Hawkes”)(collectively “Simplifi Respondents”).

I. ARGUMENT

The current motion to strike evidence presented in The ECHO-Association’s Objection to the Rely Memorandum is both improper as a motion and untimely as a response under the URCP.

Under Rule 7 (n) URCP, a party who objects to evidence in another party's motion or memorandum may not move to strike that evidence, but must rather include in a subsequent memorandum an objection to the evidence.

The present motion to strike evidence regarding Mrs. Hawkes' duties as Deputy Mayor of the Emigration Canyon Metro Township as well as Mrs. Hawkes' position as a director, officer and registered agent of Simplifi providing "management services" to Emigration Improvement District ("EID") acting as an "independent contractor" out of her private residence and therefore not bound to the directions of EID trustees thereby refuting Simplifi Respondents' evidentiary claim that Mrs. Hawkes "has no direct involvement with EID"¹ as documented the Objection to the Reply Memorandum² is therefore improper.

Moreover, under Rule 7 (f) URCP a moving party may file a response to an objection no later than 7 days after the objection is filed. In the calculation of time under Rule 6 (a)(1) URCP, when the period is stated in days or a longer unit of time, the day the event is triggered is not counted while every day including Saturday, Sunday and legal holidays is counted.

The Objection to the Reply memorandum was filed on September 2, 2020 and thus the Simplifi Respondents were required to file a response to the objection of evidence no later than September 9, 2020. As the present motion was filed on September 10, 2020 without a request for an extension of time due to excusable neglect or upon action of the Court under Rule 6 (b) URCP, the motion to strike the objection is also untimely as a response under Rule 7 (f) URCP.

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¹ Simplifi Respondents' Reply Memorandum at footnote Nr. 1.

² The ECHO-Association's Objection to Reply Memorandum at page 3 *et seq.*

II. CONCLUSION

For the foregoing reasons, Mr. Tracy respectfully requests the Court disregard Simplifi Respondents' Motion to Strike the Objection to the Reply Memorandum as both improper and untimely and deny Simplifi Respondents' motion to dismiss The ECHO-Association's petition for judicial review of the denied request for public documents related to lead contamination of a public drinking-water system and lastly deny Simplifi Respondents' altered motion to award attorney fee and costs to Simplifi Respondents instead of EID.

As the time for responding to the Objection to the Reply Memorandum expired on September 9, 2020, the Motion to Dismiss is now ripe for decision under Rule 7 (g) URCP.

DATED this 10th day of September, 2020.

MARK CHRISTOPHER TRACY dba
EMIGRATION CANYON HOME OWNERS
ASSOCIATION

/s/ Mark Christopher Tracy
Mark Christopher Tracy
Pro se Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of September, 2020, a true and correct copy of the foregoing **OBJECTION TO MOTION TO STRIKE OBJECTION TO REPLY MEMORADUM** was sent via electronic mail to the following counsel of record:

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/s/ Mark Christopher Tracy
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