

STATE OF NORTH CAROLINA
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
19 CVS 8163

STEVEN MCRAE,

Plaintiff,

v.

KYLE RUSSELL CURTIS,

Defendant.

**MOTION TO STRIKE THE
SUPPLEMENTAL AFFIDAVIT OF
STEVEN MCRAE (ECF NO. 35)**

**EXPEDITED RESPONSE
REQUESTED**

Pursuant to BCR 7.5, North Carolina Rule of Civil Procedure 12(f), and North Carolina Rules of Evidence 901 and 902, defendant Kyle Russell Curtis respectfully moves the Court for an order striking the supplemental affidavit of Steven McRae, filed on September 3, 2020 (ECF No. 35). The bases for this motion are detailed in the accompanying brief.

In light of the hearing on Mr. Curtis's amended motion to set aside, scheduled for the morning of Friday, September 11, Mr. Curtis requests that the Court order Mr. McRae to file any response to this motion to strike by 9:00 p.m. on Wednesday, September 9.

Pursuant to BCR 7.3, the undersigned counsel consulted with counsel for Mr. McRae about this motion. Counsel for Mr. McRae noted his position as follows and asked that it be included in this motion: "Plaintiff does not consent to Defendant's motion or the request for expedited briefing. The reason Plaintiff did not file a motion to strike Defendant's improper and late-filed affidavit is because Plaintiff wants this matter to be reached rather than hold additional rounds of briefing

which only serve to further delay the relief Plaintiff has been awarded.”¹ Plaintiff intends to respond to the motion to strike.

This 6th day of September, 2020.

ELLIS & WINTERS LLP

/s/ Scottie Forbes Lee

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Counsel for Kyle Russell Curtis

¹ Mr. Curtis strongly disagrees with counsel’s characterization of Mr. Curtis’s affidavit and its relevance to this motion to strike.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing has been served on all counsel of record in accordance with Business Court Rule 3.9 through electronic filing with the North Carolina Business Court.

This the 6th day of September, 2020.

By: /s/ Scottie Forbes Lee
Scottie Forbes Lee