

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 13-23467-CIV-COHN/SELTZER

PRESCOTT ASHE, an individual,

Plaintiff,

vs.

M/Y AFTER HOURS, her engines, tackle,
appurtenances, spares and equipment
appertaining whether onboard or not, *in rem*,
JAMES FRANGI, an individual, and
SHAWN SABHARWAL, an individual,

Defendants.

ORDER

THIS CAUSE is before the Court on Defendant James Frangi's Motions for Leave to Amend Motions to Dismiss [DE 79 & 80] and Plaintiff Prescott Ashe's Motion to Strike Frangi's Serial Supplemental Memoranda [DE 85]. The Court has reviewed the motions and other relevant papers, and is otherwise advised in the premises. For the reasons below, the Court grants Plaintiff's motion and denies Defendant Frangi's motions as moot.

On March 21, 2014, Defendant Frangi filed a timely motion to dismiss Plaintiff's amended complaint.¹ See DE 64. That same day, Defendant Frangi, purporting to be the "Company Representative for After Hours M/Y LLC," also filed a timely motion to dismiss on behalf of the *in rem* defendant. See DE 65. Nearly two weeks later, on April 2, 2014—albeit five days before Plaintiff's responses to the motions were due—

¹ Plaintiff's response, therefore, was due on April 7, 2014. See S.D. Fla. L.R. 7.1(c)(1).

Defendant Frangi filed a document purporting to be a response to Plaintiff's motion for interlocutory sale,² as well as a supplemental memorandum to the *in rem* defendant's motion to dismiss. See DE 72. The document appears twice on the Court's docket. See DE 72-73. In the document, Defendant Frangi restated his previous arguments in his two motions to dismiss, but also raised new arguments.

Later that same day, Defendant Frangi filed a "Notice" incorporating the *in rem* defendant's supplemental memorandum into his personal motion to dismiss. See DE 74. Then, on April 4, 2014, Defendant Frangi filed yet another supplemental memorandum in support of his personal motion to dismiss. See DE 77. Finally, on April 5, 2014, Defendant Frangi filed two more motions—one on behalf of the *in rem* defendant and another on behalf of himself—asking the Court to grant him leave to amend his motions to dismiss to essentially incorporate his supplemental memoranda. See DE 79, 80. Plaintiff, for his part, has moved to strike Defendant Frangi's supplemental memoranda as improper and untimely. See DE 85.

The Court agrees with Plaintiff that Defendant Frangi's supplemental filings should be stricken. Local Rule 7.1 of the Southern District of Florida sets forth the briefing schedule for motions filed in this Court. Aside from the contemplated motion, response, and reply, Rule 7.1(c) provides that "[n]o further or additional memorandum of law shall be filed without prior leave of Court." S.D. Fla. L.R. 7.1(c). "Turning to the practice of making supplemental filings with this Court, such supplemental filings should direct the Court's attention to legal authority or evidence that was not available to the filing party at the time that that party filed the original brief to which the subsequent

² Plaintiff's motion for interlocutory sale of the *in rem* defendant vessel was filed on February 25, 2014. See DE 48.

supplemental filing pertains.” Girard v. Aztec RV Resort, Inc., No. 10-cv-62298-ZLOCH, 2011 U.S. Dist. LEXIS 105855, at *6 (S.D. Fla. Sept. 16, 2011). “Beyond that, however, supplemental filings should do nothing more.” Id.

In this case, Defendant Frangi did not request or obtain leave from the Court before filing any of his supplemental memoranda. Nor did he limit his supplemental memoranda to “legal authority or evidence that was not available” to him at the time that he filed his motions to dismiss. Id. Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff Prescott Ashe’s Motion to Strike Frangi’s Serial Supplemental Memoranda [DE 85] is **GRANTED**. Docket entry numbers 72, 73, 74 and 77 are hereby **STRICKEN** from the record to the extent they relate to Defendant Frangi’s motions to dismiss. Defendant James Frangi’s Motions for Leave to Amend [DE 79 & 80] are **DENIED AS MOOT**.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 15th day of April, 2014.



JAMES I. COHN
United States District Judge

Copies provided to counsel of record via CM/ECF.