

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CLARA TATE SPENCER, in her own	:	CIVIL ACTION
right and as Administratrix of	:	
the ESTATE OF LAMONT TATE,	:	04-4974
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
GLENN ECKMAN, individually, and in	:	
his capacity as an officer in the	:	
Police Department of Phoenixville,	:	
Pennsylvania, and as Chief of the	:	
Lower Providence Community Center	:	
(improperly captioned as the Lower	:	
Providence Ambulance Company);	:	
THE BOROUGH OF PHOENIXVILLE,	:	
PENNSYLVANIA,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 28th day of March, 2005, upon consideration of the Motion of Defendant Glenn Eckman, in his capacity as Chief of Lower Providence Community Center (improperly captioned as the Lower Providence Ambulance Company), to Strike as Untimely Plaintiff's Response to Defendant's Motion to Dismiss (Doc. No. 36), and it appearing to this Court that the Motion is uncontested, it is hereby ORDERED that the Motion is GRANTED and Plaintiff's Response to Defendant's Motion to Dismiss (Docs. No. 34, 35) is hereby STRICKEN from the record.¹

¹ Pursuant to Local Rule of Civil Procedure 7.1(c), a motion may be granted as uncontested where no response is timely filed. As Defendant's Motion to Strike was filed on March 3, 2005, Plaintiff's response was due March 21, 2005. See E.D Pa. Loc. R. Civ. P. 7.1(c), Fed. R. Civ. P. 6(a), 6(e). Because no response has been filed as of the date of this Order, this Court will grant the Motion as

It is FURTHER ORDERED that Plaintiff's Response to the Motion to Dismiss Filed by Defendant Glenn Eckman and the Borough of Phoenixville (Docs. No. 28, 29) is likewise STRICKEN from the record.²

BY THE COURT:

s/J. Curtis Joyner
J. CURTIS JOYNER, J.

uncontested.

This Court is, however, inclined to direct a brief comment toward Plaintiff's counsel with respect to the issues raised by the instant Motion. In this action, counsel for Plaintiff has repeatedly disregarded the deadlines set by this Court and by the Federal and Local Rules of Civil Procedure, with no good cause therefor. This Court has already granted as uncontested three Motions to Dismiss filed by various Defendants, after Plaintiff failed to respond to the motions until twenty-three days after a response was due. See Order dated January 19, 2005 (Doc. No. 19). Plaintiff then filed an untimely Motion for Reconsideration, which was denied after consideration on its merits. See Order dated March 3, 2005 (Doc. No. 37). The instant Motion to Strike concerns yet another untimely Response to a Motion to Dismiss, which Plaintiff's counsel filed three days beyond the deadline mandated by Local Rule of Civil Procedure 7.1(c) and Federal Rules of Civil Procedure 6(a) and 6(e).

According to our docket, Plaintiff's counsel has practiced before this Court since at least 1982. Thus, we expect counsel to be well-versed in the Local and Federal Rules of Civil Procedure, and well aware of this Court's discretionary authority to grant motions as uncontested where a response is untimely filed. Nevertheless, counsel has repeatedly flouted deadlines in this action, in clear disregard of both this Court's rules and the interests of his client. We advise counsel that continued violation of the rules of this Court will result in formal reprimand and, if appropriate, sanctions.

² For the reasons stated above, this Court will also strike from the record Plaintiff's untimely response to the Motion to Dismiss of Defendants Glenn Eckman and the Borough of Phoenixville. Defendants filed their Motion to Dismiss on January 20, 2005. Pursuant to Local Rule of Civil Procedure 7.1(c) and Federal Rules of Civil Procedure 6(a) and 6(e), a response was due by February 7, 2005. As Plaintiff's response was filed four days late, on February 11, 2005, we will strike the response and treat Defendants' Motion to Dismiss as uncontested.