

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
ST. THOMAS & ST. JOHN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	CASE NO. 3:25-cv-00050
	)	
v.	)	
	)	
THE GOVERNMENT OF THE VIRGIN	)	
ISLANDS, THE VIRGIN ISLANDS	)	
POLICE DEPARTMENT, and MARIO	)	
BROOKS, in his official capacity as Police	)	
Commissioner of the territory of the Virgin	)	
Islands,	)	
	)	
Defendants.	)	
	)	

MEMORANDUM OPINION

I) Introduction:

Before the Court is ECF No. 65, a Motion of the Government of the Virgin Islands ("Defendant") to Strike the United States' ("Plaintiff") Second Motion for Preliminary Injunction, ECF No. 64, filed on July 22, 2026.

For the reasons set forth herein, the Court hereby **DENIES** Defendant's Motion to Strike¹.

¹ The Defendant filed its Motion to Strike on July 22, 2026—the precise court-ordered deadline for Defendant to submit its brief regarding the newly enacted Virgin Islands statute, titled the "2026 Second Amendment Rights and Public Safety Act." Defendant failed to timely file that brief, yet somehow managed to file its Motion to Strike that same day. The following day, Defendant filed its brief one day late, without first seeking leave of Court. Only after submitting the untimely brief did Defendant retroactively seek leave for the late filing. The Court will address this procedural noncompliance under separate order.

The Court cautions Defendant that the people of the Virgin Islands would be far better served by the Office of the Virgin Islands Attorney General if counsel for that office focused attention upon the basic task of adhering to court-ordered deadlines, rather than filing extraneous motions that misapprehend the federal rules of civil procedure.

II) The Legal Standard:

The Defendant invokes Fed. R. Civ. P. 12(f) in an effort to strike Plaintiff's Second Motion for Preliminary Injunction. Rule 12(f) provides, in relevant part, that: "The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f).

The district court possesses "considerable discretion" in disposing of Rule 12(f) motions to strike matters purported to be redundant, impertinent, immaterial, or scandalous. *See* 5C Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1382 (3d ed. 2004). Additionally, case law establishes that a motion to strike "should be denied unless the challenged allegations have no possible relation or logical connection to the subject matter of the controversy and may cause some form of significant prejudice to one or more of the parties to the action." *Id.*

To this point, the Third Circuit teaches that "a court should not grant a motion to strike a defense unless the insufficiency of the defense is 'clearly apparent.' The underpinning of this principle rests on a concern that a court should restrain from evaluating the merits of a defense where, as here, the factual background for a case is largely undeveloped." *Cipollone v. Liggett Grp., Inc.*, 789 F.2d 181, 188 (3d Cir. 1986) (internal citations and quotation marks omitted).

This body of law notwithstanding, the Court finds that it need not reach the merits of Defendant's claims in its Motion to Strike because the term "pleading" under Rule 12(f) is strictly defined by Fed. R. Civ. P. 7(a). Within its ambit, Rule 7(a) encompasses: "(1) a complaint; (2) an answer to a complaint; (3) an answer to a counterclaim designated as a counterclaim; (4) an answer to a crossclaim; (5) a third-party complaint; (6) an answer to a third-party complaint; and (7) if the court orders one, a reply to an answer." Therefore, "pleadings" as defined in Rule 7(a) are distinct

from "motions," which are governed by Fed. R. Civ. P. 7(b). Plaintiff's filing at ECF No. 64, which Defendant seeks to strike, is a motion for a preliminary injunction.

III) Discussion:

The filing by the Defendant at issue here is self-evidently not a "pleading" within the meaning of Rule 12(f). *See Ottaviance v. AVS Props., LLC*, No. 18-12349, 2019 WL 3183642, at *2 n.3 (D.N.J. July 15, 2019). Rule 12(f) applies only to pleadings as defined by Federal Rule of Civil Procedure 7(a), and not to motions. *See* 5C Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1380 (3d ed. 2004) ("Rule 12(f) motions only may be directed towards pleadings as defined by Rule 7(a); thus motions, affidavits, briefs, and other documents outside of the pleadings are not subject to Rule 12(f).").

In *Personacare of Reading, Inc. v. Lengel*, the District Court for the Eastern District of Pennsylvania faced a similar situation as the one faced by this Court here—namely, a motion by the defendant, relying upon Rule 12(f), to strike the plaintiff's motion to compel arbitration. *See* No. 16-1965, 2017 WL 1036154, at *2 (E.D. Pa. Mar. 17, 2017). The court denied the motion to strike under Rule 12(f), finding it improper because "a motion is not a pleading." *Id.* Furthermore, it is well-settled in this Circuit that Rule 12(f) motions to strike are not properly directed at documents that are not "pleadings" as defined by Rule 7(a). *See, e.g., Reid v. Heartland Payment Sys., Inc.*, No. 17-1172, 2018 WL 488055, at *5 (E.D. Pa. Jan. 19, 2018) ("[C]ourts will deny motions to strike papers other than pleadings.").

Outside of Rule 12(f), the Federal Rules of Civil Procedure do not otherwise contemplate motions to strike, and the Defendant cites to no contrary authority in its effort to strike the plaintiff's motion.

IV) Conclusion:

In resolving Defendant's motion, the Court intends to remain steadfastly on the well-furrowed path carved out by established Third Circuit precedent which holds that motions to strike are procedurally unavailable when directed at filings that are not pleadings.

Consequently, this Court will **DENY** Defendant's Motion to Strike.

DATED: August 18, 2026

s/ Evan Rikhye

EVAN RIKHYE
United States District Judge