

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 09–cv–00309-MSK-KMT

SUZANNE SHELL,

Plaintiff,

v.

AMERICAN FAMILY RIGHTS ASSOCIATION,
LEONARD HENDERSON,
FAMILIES AT RISK DEFENSE ALLIANCE,
FRANCINE RENEE CYGAN,
MARK CYGAN,
ILLINOIS FAMILY ADVOCACY COALITION,
GEORGIA FAMILY RIGHTS, INC.,
DENNIS HINGER,
NATIONAL ASSOCIATION OF FAMILY ADVOCATES,
CONNECTICUT DCF WATCH,
ANN DURAND,
BRENDA SWALLOW,
KATHY TILLEY,
RANDALL BLAIR,
LLOYD PHILLIPS,
DESERE' CLABO aka HOWARD, and
UNKNOWN DEFENDANTS DOE 1-15,

Defendants.

ORDER

This matter is before the court on “Defendant Swallow’s Motion to Strike Plaintiff Shell’s Response to Defendant Blair’s[s] Motion to Amend Answer and Counterclaim” (Doc. No. 613, filed March 8, 2012).

Federal Rule of Procedure 12(f) provides that “[t]he court may strike from a *pleading* an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f) (emphasis added). Motions and other papers are not pleadings. See Fed. R. Civ. Pro. 7. “[T]here is no provision in the Federal Rules of Civil Procedure for motions to strike motions and memoranda.” *Searcy v. Soc. Sec. Admin.*, No. 91-4181, 1992 WL 43490, at *2, (10th Cir. March 2, 1992)(unpublished). “Only material included in a ‘pleading’ may be the subject of a motion to strike, and courts have been unwilling to construe the term broadly. Motions, briefs, or memoranda, objections, or affidavits may not be attacked by the motion to strike.” 2 JAMES WM. MOORE ET.AL., MOORE’S FEDERAL PRACTICE § 12.37[2] (3d ed. 2004) (cited with approval in *Searcy*). Plaintiff’s “Objection” (Doc. No. 18) is not a pleading that may be the subject of a motion to strike.

Accordingly on “Defendant Swallow’s Motion to Strike Plaintiff Shell’s Response to Defendant Blair’s Motion to Amend Answer and Counterclaim” (Doc. No. 613) is DENIED.

Dated this 12th day of March, 2012.

BY THE COURT:



Kathleen M Tafoya
United States Magistrate Judge