

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

CRUISE LINES INTERNATIONAL )  
ASSOCIATION ALASKA, et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
THE CITY AND BOROUGH OF JUNEAU, )  
ALASKA, et al., )  
 )  
Defendants. )  
\_\_\_\_\_ )

No. 1:16-cv-0008-HRH

ORDER

Motion to Strike Bartholomew Affidavit

Plaintiffs move<sup>1</sup> to strike the affidavit of Bob Bartholomew<sup>2</sup> offered by defendants in support of their cross-motion for summary judgment and opposition to plaintiffs' motion for summary judgment. Plaintiff first argues that Bartholomew's affidavit should be stricken because it does not appear to be based on personal knowledge as required by Federal Rule of Civil Procedure 56(c)(4). Because Bartholomew's affidavit is not based on personal

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<sup>1</sup>Docket No. 150.

<sup>2</sup>Docket No. 133.

knowledge, plaintiffs argue that the majority of Bartholomew's averments are inadmissible hearsay.

In response, Bartholomew offers a supplemental affidavit,<sup>3</sup> in which he explains the basis for the averments made in his affidavit. This supplemental affidavit adequately establishes Bartholomew's personal knowledge.

Plaintiffs next argue that Bartholomew's affidavit should be stricken because it contains only conclusory statements. As plaintiffs point out, "conclusory, self-serving affidavit[s], lacking detailed facts and any supporting evidence,' are insufficient to create a genuine issue of material fact." Hexcel Corp. v. Ineos Polymers, Inc., 681 F.3d 1055, 1063 (9th Cir. 2012) (quoting FTC v. Publ'g Clearing House, Inc., 104 F.3d 1168, 1171 (9th Cir. 1997)). If Bartholomew's affidavit contains conclusory statements, the court will not rely on them when deciding the parties' cross-motions for summary judgment. But, the court will not strike Bartholomew's affidavit in its entirety because it may contain some conclusory statements.

Finally, plaintiffs argue that Bartholomew's affidavit should be stricken because defendants cited to the entire affidavit in support of certain facts, rather than identifying the paragraph number of the affidavit that supported the fact in question. Defendants have

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<sup>3</sup>Appendix A, Opposition to Plaintiffs' Motion to Strike the Affidavit of Bob Bartholomew, Docket No. 167.

attempted to remedy this situation by offering tables<sup>4</sup> that match the references to Bartholomew's affidavit in defendants' briefing to specific paragraphs in Bartholomew's affidavit.

“The efficient management of judicial business mandates that parties submit evidence responsibly.” Orr v. Bank of America, NT & SA, 285 F.3d 764, 775 (9th Cir. 2002). “Thus, the trial court may exclude evidence when a party relies on deposition testimony or an affidavit in a summary judgment [motion] without citing to page and line numbers.” Goped Ltd LLC v. Amazon.com Inc., Case No. 3:16-cv-00165-MMD-VPC, 2018 WL 834591, at \*4 (D. Nev. Feb. 12, 2018).

The court declines to strike Bartholomew's affidavit on this ground. The tables offered by defendants adequately identify which paragraphs of Bartholomew's affidavit support which facts in defendants' briefing.

Plaintiffs' motion to strike Bartholomew's affidavit<sup>5</sup> is denied.

DATED at Anchorage, Alaska, this 23rd day of May, 2018.

/s/ H. Russel Holland  
United States District Judge

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<sup>4</sup>Appendix B, Opposition to Plaintiffs' Motion to Strike the Affidavit of Bob Bartholomew, Docket No. 167.

<sup>5</sup>Docket No. 150.