

IN THE COURT OF CLAIMS OF OHIO

TRANSAMERICA BUILDING COMPANY,
INC.

Plaintiff/Counter Defendant

v.

OHIO SCHOOL FACILITIES
COMMISSION, etc.

Defendant/Counter
Plaintiff/Third-Party
Plaintiff/Counter Defendant

v.

LEND LEASE (US) CONSTRUCTION,
INC.

Third-Party Defendant/Counter
Plaintiff/Fourth-Party Plaintiff

and

STEED HAMMOND PAUL INC., etc.

Third-Party
Defendant/Fourth-Party Plaintiff

v.

BERARDI PARTNERS, INC., et al.

Fourth-Party Defendants

Case No. 2013-00349

Judge Patrick M. McGrath
Referee Samuel Wampler

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On November 12, 2015, plaintiff, TransAmerica Building Company, Inc. (TransAmerica), filed its response to defendant's objections to the referee's decision. On November 23, 2015, defendant, Ohio School Facilities Commission (OSFC), filed a "Motion to Strike Plaintiff's Response to its Objections or in the Alternative Motion for Leave to File a Response to TransAmerica's Objections." In support of its motion to strike, OSFC asserts that "neither the civil rules nor the local rules provide for the filing of a response to objections." While defendant did not refer, cite, or direct the court to any civil or local rules addressing objections to referee's or magistrate's decisions, the court presumes that OSFC is referring to Civil Rule 53(D)(3) and its subparts.

Attorneys for OSFC are well aware that this court has routinely accepted responses to objections and considered them without requiring leave to file a response. This case is a perfect example of this practice. On October 24, 2014, OSFC filed without leave of court, its "Response of Defendant/Counterclaim Plaintiff Ohio School Facilities Commission to the Objections of Plaintiff TransAmerica Building Company, Inc., to the Referee's Decision on the Motion for Summary Judgment." The court accepted this filing along with "TransAmerica's Response to OSFC's Objections to the Referee's Decision on the Motion for Summary Judgment."

Moreover, the court notes that counsel for OSFC has submitted, without leave of court, responses to objections in a number of other cases in this court, including *Meccon, Inc., et al. v. The University of Akron*, 2008-08817 and *T&F Systems, Inc. v. OSFC*, 2010-10572.

OSFC directs the court to no authority which would lead the court to strike TransAmerica's response, and OSFC's motion is not well-taken. As such, OSFC's motion to strike plaintiff's response to its objections is DENIED. Further, OSFC's motion

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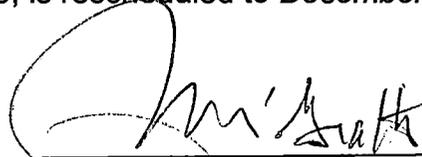
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for leave to file a response to TransAmerica's objections is GRANTED such that OSFC's response is due on or before *December 11, 2015*. The non-oral hearing previously scheduled for December 3, 2015, is rescheduled to *December 14, 2015*.



PATRICK M. MCGRATH
Judge

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