

Research Memorandum #83: Motion to Strike

Oakes v. City of Fairhope, 200 Maj. 2d 826 (20XX-26): “A motion to strike will be granted if all or part of a pleading is scandalous or irrelevant to the issues of a case. When a word or statement in a pleading casts a derogatory light on someone (usually a party to the action), then the matter is deemed scandalous or indecent and is stricken from the pleading. A court can strike from the pleadings any matter that is immaterial in developing the issues of a case.

“Material in a pleading is often not stricken because of its relevance and truthfulness in relation to the issues of the case even though the material may embarrass or offend the party against whom the pleading is filed, if it is designed to have a useful and necessary effect upon the case’s outcome and no prejudice would result to the defendant.

“A motion to strike regarding material in a pleading is usually allowed when an allegation is frivolous, unnecessary, sham, impertinent, or scandalous.”

In re Stevens, 144 Maj. 2d 421 (20XX-30): “Statement that father had been previously convicted of carnal abuse of his child under the age of 18 was not a scandalous prejudicial matter unnecessarily inserted in the pleadings. Therefore, the trial court was correct in its ruling to not strike because of its relevance to the issue of the abuse of the child. Judgment affirmed.”

Thompson v. United States, 143 Maj. 2d 17 (20XX-31): “Action by alleged owner of trust deed and note to quiet owner’s title to trust deed and note against the United States. The United States government consequently withheld the deed and note as security for tax purposes. The complaint contained abusive and reproachful language that was not necessary or material to the cause of action.

“The trial judge correctly ordered that the word ‘feloniously’ be stricken wherever found in the complaint and the plaintiff redraft and file an amended complaint. Judgment affirmed.”