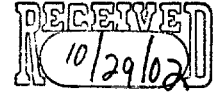


UNITED STATES DISTRICT COURT
DISTRICT OF MAINE



D. BROCK HORNBY
CHIEF JUDGE

156 FEDERAL STREET
PORTLAND, MAINE 04101
(207) 780-3280

October 29, 2002

02-CV-J

Peter G. McCabe, Secretary
Judicial Conference Committee on Rules
of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, N.E.
Washington, D.C. 20544

Re: Motions to Strike

Dear Peter:

I have spoken with you and Dan Coquillette and perhaps others on the subject of what it means to grant a motion to strike under Fed. R. Civ. P. 12(f). As near as I can determine, clerks' offices have no instructions what they should do with a pleading, all or portions of which are ordered "stricken." Is the offending paragraph (perhaps "scandalous") materials to be blackened out or excised? Or does the order simply stand as a separate entry on the docket? The answer to this question has become particularly pressing with electronic case filing. If a lawyer or party files a document electronically, and later (days? weeks?), a judge orders that all or portions of it be stricken, what is a court's system administrator to do? If a lawyer or party or member of the news media tries to access the document, should they be told that access is denied because it is stricken? Or is access provided with an annotation that it is "stricken"? Or something else? I'm not sure that any of us have ever had a clear idea what it means to "strike" a document or a paragraph or a sentence, but I fear we cannot delay the issue any longer. I invite the Committee's immediate attention to the question.

Very truly yours,

D. Brock Hornby

dlh

cc: Hon. Anthony J. Scirica, Chair, Committee on Rules of Practice and Procedure
Professor Daniel Coquillette, Reporter
Hon. David F. Levi, Chair, Advisory Committee on Civil Rules
Professor Edward H. Cooper, Reporter
John K. Rabiej

via fax