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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8
9 United States of America,
10 Plaintiff,

No. CV10-2358-PHX-DGC

ORDER

11 vs.

12 Robert F. Smith,
13 Defendant.

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15 On January 25, 2012, Defendant Robert F. Smith filed a document titled “Offer of
16 Proof by Affidavit.” Doc. 58. The 26-page document, containing 107 paragraphs of
17 factual and legal assertions, sets forth a variety of legal and factual arguments made by
18 Defendant in this case. The document states that its assertions will be deemed true if
19 Plaintiff does not offer proof in rebuttal within 30 days. The document asks the Court to
20 schedule a show-cause hearing. The document also makes various assertions concerning
21 improper conduct and lack of authority on behalf of Plaintiff and Plaintiff’s counsel.
22 Plaintiff has filed a response (Doc. 60) and Defendant has filed a reply (Doc. 61).

23 Defendant’s Offer of Proof by Affidavit is not authorized by the Federal Rules of
24 Civil Procedure. Those rules do not permit Defendant to present an offer of proof of this
25 type, demand responses within 30 days, and declare that the assertions in the offer of
26 proof will be deemed true unless rebutted by the opposing party. Nor do the rules allow
27 Defendant to demand a show-cause hearing on the basis of an offer of proof. As a result,
28 any relief requested in Defendant’s Offer of Proof by Affidavit (Doc. 58) is **denied**.

1 Plaintiff has filed a motion for summary judgment pursuant to Rule 56 of the
2 Federal Rules of Civil Procedure. Doc. 62. Defendant's response to the motion is due on
3 **April 5, 2012**. In responding to the motion, Defendant must comply not only with
4 Federal Rule of Civil Procedure 56, but also with Local Rule of Civil Procedure 56.1. If
5 Defendant fails to respond to the motion, or fails properly to present evidence giving rise
6 to a question of fact or otherwise to show that Plaintiff is not entitled to judgment as a
7 matter of law, the Court may grant summary judgment in favor of Plaintiff.¹

8 Dated this 28th day of March, 2012.

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13 David G. Campbell
14 United States District Judge
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26 ¹ The Court's Case Management Order (Doc. 31) established a deadline of
27 November 18, 2011, for motions for summary judgment. Because the schedule in this
28 case was delayed by Defendant's several requests for clarification of his discovery
obligations, his assertion of a Fifth Amendment privilege, and his attempt to seek an
interlocutory appeal, the Court will not hold the parties to that deadline and will consider
the motion filed by Plaintiff on March 1, 2012.