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

9 Derek Jahn Chabrowski, et al.,

10 Plaintiffs,

11 v.

12 Wlodzimierz Jan Litwin, et al.,

13 Defendants.

No. CV-16-03766-PHX-DLR

**ORDER**

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16 Before the Court is Plaintiff Derek Chabrowski's ("Chabrowski") motion for  
17 summary judgment. (Doc. 122.) The motion is fully briefed.<sup>1</sup> (Doc. 126.) For the  
18 following reasons, Chabrowski's motion for summary judgment is denied.

19 Summary judgment is appropriate when there is no genuine dispute as to any  
20 material fact and, viewing those facts in a light most favorable to the nonmoving party,  
21 the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). When

22 <sup>1</sup> The parties also have fully briefed Chabrowski's separate motion for oral  
23 argument on summary judgment. (Docs. 133-135.) This briefing strikes the Court as a  
24 wasteful use of resources. This District's Local Rules require a party requesting oral  
25 argument to include the words "Oral Argument Requested" immediately below the title  
26 of the motion. In practice, however, it is not uncommon for parties to neglect to do so  
27 and to instead submit either a notice of errata, amended motion, or other type of separate  
28 request for oral argument, which is what happened here. The Court has never before had  
litigants quarrel over the propriety of a party's separate request for oral argument,  
probably because simply requesting oral argument does not guarantee that the Court will  
permit one. Instead, the Court's decision to set oral argument depends on whether it  
believes oral argument would be useful. The Court denies Chabrowski's request for oral  
argument not because of any technical non-compliance with the Local Rules, but  
because, after reviewing the parties' briefing and the record, the Court finds oral  
argument unnecessary. *See* Fed. R. Civ. P. 78(b); LRCiv. 7.2(f).

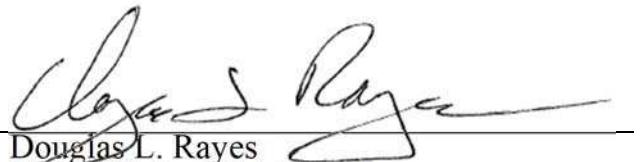
1 moving for summary judgment, the burden of proof initially rests with the moving party  
2 to present the portions of the record he believes demonstrate the absence of a genuine  
3 issue of material fact *and* the legal basis for his motion. *See Celotex Corp. v. Catrett*, 477  
4 U.S. 317, 323 (1986); *see also* LRCiv. 56.1(a) (requiring the moving party to submit a  
5 “memorandum of law”). If the movant fails to carry his initial burden of production, the  
6 non-movant need not produce anything further and the motion for summary judgment  
7 fails.

8 Here, Chabrowski’s motion for summary judgment consists of a separate  
9 statement of facts and his personal declaration. (Docs. 123, 124.) Missing from  
10 Chabrowski’s motion is a memorandum of law explaining why, as a matter of law, he is  
11 entitled to summary judgment. Even assuming that there are no genuine disputes of  
12 material fact, which the Court seriously doubts after reviewing Defendant’s controverting  
13 statement of facts, Chabrowski fails to explain why he is entitled to judgment as a matter  
14 of law. Accordingly,

15 **IT IS ORDERED** that Chabrowski’s motion for summary judgment (Doc. 122)  
16 and motion for oral argument (Doc. 133) are **DENIED**.

17 **IT IS FURTHER ORDERED** reaffirming the pretrial deadlines contained in the  
18 Court’s March 2, 2018 Order Setting Final Pretrial Conference (Doc. 119), of which all  
19 parties should have a copy.

20 Dated this 9th day of October, 2018.

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24 Douglas L. Rayes  
25 United States District Judge  
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