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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

City of Tombstone,

Plaintiff,

vs.

United States of America,

Defendant.

) No. CV 11-845-TUC-FRZ

) **ORDER**


In a previous Order, the Court denied Defendant’s motion to dismiss seeking to dismiss this case for lack of jurisdiction. *See* Order at Doc. 81. The Court denied Defendant’s motion without prejudice as the Court found that a period of jurisdictional discovery was warranted to allow Plaintiff an opportunity to gather evidence to oppose Defendant’s arguments seeking dismissal. *See id.* After jurisdictional discovery closed, Defendant was permitted to file its dispositive motion seeking dismissal for lack of jurisdiction. *See id.* After jurisdictional discovery closed, Defendant filed its motion in compliance with the Court’s Order seeking to dismiss all of Plaintiff’s claims for lack of jurisdiction. In light of the looming dispositive motion for lack of jurisdiction, the Court has not ordered a Rule 16 conference or Rule 16 report pertaining to any merits discovery, and has not entered a Scheduling Order pertaining to discovery on the merits; any such action would be premature given the posture of this case. On the same day Defendant filed its dispositive motion seeking to dismiss the entire case for lack of jurisdiction, Plaintiff filed a motion seeking

1 summary judgment on the merits as to numerous claims. Plaintiff's partial motion for  
2 summary judgment is premature in light of the posture of this case, and is denied without  
3 prejudice. If the Court determines that there is jurisdiction as to any of Plaintiff's claims  
4 after briefing is complete as to Defendant's jurisdictional dispositive motion, the Court will  
5 order the parties to confer and submit a Rule 16 report as to any remaining claims and the  
6 scope of merits discovery.

7 Plaintiff shall file a response to Defendant's motion for summary judgment by 7/18/14.  
8 Plaintiff's response shall comply with the Court's previous Order (Doc. 81), and shall not  
9 incorporate arguments or cross-reference the denied partial motion for summary judgment  
10 (and accompanying statement of facts) to support its response; Plaintiff's responsive briefs  
11 and responsive statement of facts must stand on its own. Defendant's reply is due 30 days  
12 after Plaintiff's response is filed.

13 Defendant's motion to strike is granted only to the extent consistent with the Court's  
14 ruling in this Order; Defendant's motion for an extension of time is denied as moot.

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16 DATED this 12<sup>th</sup> day of June, 2014.

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20 Frank R. Zapata  
21 Senior United States District Judge  
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