

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

ALLEN POLK

PLAINTIFF

V.

4:11CV00501 BRW/JTR

PULASKI COUNTY, et. al.

DEFENDANTS

ORDER

Separate Defendants Blankenship, Elizandro, Hunter, Ward, and Woodard have filed a Motion to Dismiss and a Supporting Brief.¹ *See* docket entries #21 and #22.

Because Defendants have attached supporting documents to that Motion, it is more properly characterized as a Motion for Summary Judgment. *See* docket entry Fed. R. Civ. P. 12(b) (providing that if “matters outside of the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56”); *Country Club Estates v. Town of Loma Linda*, 213 F.3d 1001, 1005 (8th Cir. 2000) (providing that the party opposing the motion must be placed on notice that it is being construed as a request for summary judgment so that the party will “understand that the burden will be on him to produce affidavits, not merely allegations in pleadings, to rebut what has become

¹ The Motion provides the Defendants’ full names. The Court will direct the Clerk to amend the docket sheet accordingly.

a motion for summary judgment”).

Local Rule 56.1(a) provides that: “Any party moving for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, *shall* annex to the notice of motion a separate, short and concise statement of the material facts as to which it contends there is no genuine issue to be tried.” (Emphasis added.) Defendants have not filed a Statement of Undisputed Material Facts, as required by Local Rule 56.1(a).

IT IS THEREFORE ORDERED THAT

1. Defendants Blankenship, Elizandro, Hunter, Ward, and Woodward shall file a Statement of Undisputed Material Facts **within fourteen days of the entry of this Order.**

2. The Clerk is directed to amend the docket sheet to reflect that Defendant Blankenship is “Greg Blankenship,” Defendant Elizandro is “William Elizandro,” Defendant Hunter is “Shelby Hunter,” Defendant Ward is “Robert Ward,” Defendant Woodward is Jason Woodward.”

Dated this 30th day of August, 2011.


UNITED STATES MAGISTRATE JUDGE