

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 07-cv-02041-CMA-BNB

MICHAEL GENE YOUNG,

Plaintiff,

v.

THOMAS A. ESKESTRAND, M.D.,
ORVILLE NEUFELD, PhD D.O.,
R. LINDSAY LILLY JR., M.D.,
LOUIS CABLING, M.D.,
GARY A. GO, M.D.,
KELLY WASKO, RN,
THEODORE LAWRENCE, PA,
TEJENDER SINGH, PA,
PATTY BEECROFT, M.D.,
DANNY ENGLUND, M.D.,
JOSEPH WERMERS, M.D.,
DEBRA HOWE, RN,
JOHN DOE AND JANE DOE 1-50,

Defendants.

ORDER

This matter arises on **Plaintiff's Motion for Summary Judgment** [Doc. #151, filed 09/02/2009] (the "Motion"). The Motion is stricken insofar as it seeks affirmative relief in the form of summary judgment. The remainder of the Motion is construed as a response to the CDOC Defendants' Motion for Summary Judgment [Doc. # 144] filed by defendants Kelly Wasko, Theodore Lawrence, and Debra Howe.

The deadline for filing dispositive motions was July 24, 2009. *Scheduling Order* [Doc. #89]. Defendants Wasko, Lawrence, and Howe were granted an extension of time until

August 12, 2009, to file a motion for summary judgment [Doc. #142]. Those defendants filed their motion on August 12, 2009 [Doc. #144]. The plaintiff was ordered to respond to the summary judgment motion on or before September 2, 2009 [Doc. #146]. On September 2, 2009, the plaintiff filed Plaintiff's Motion for Summary Judgment, which is both a response to the defendants' motion and a motion for summary judgment.

Under the local rules of practice, “[a] cross motion for summary judgment shall not be included in a response brief. A cross motion shall be made in a separate motion . . .” D.C.COLO.LCivR 56.1B. Moreover, the dispositive motion deadline expired on July 24, 2009. The plaintiff has not sought to modify the Scheduling Order to extend the dispositive motion deadline beyond that date. Therefore, insofar as the plaintiff seeks summary judgment, his Motion is untimely.

IT IS ORDERED that the Motion is STRICKEN insofar as it seeks affirmative relief in the form of summary judgment.

IT IS FURTHER ORDERED that the remainder of the Motion is construed as a response to the CDOC Defendants' Motion for Summary Judgment .

Dated September 9, 2009.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge