

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Christine M. Arguello**

Civil Action No. 08-cv-00912-CMA-KLM

WAYNE ALEXANDER, and  
EUGENE REILLY,

Plaintiffs,

v.

ARCHULETA COUNTY, COLORADO,  
PETER L. GONZALEZ, individually and in his official capacity as Sheriff of Archuleta  
County, Colorado,  
JOHN J. WEISS, individually and in his official capacity as Undersheriff of Archuleta  
County, Colorado,

Defendants.

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**ORDER ADOPTING AND AFFIRMING AUGUST 11, 2009 RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

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This matter is before the Court on Defendants' Motion to Strike Affidavits or, in the Alternative, Unopposed Motion to Suspend Briefing on Motion for Summary Judgment (Doc. # 42), filed June 2, 2009. The motion was referred to Magistrate Judge Kristen L. Mix for a recommendation on June 3, 2007 (Doc. # 44). Magistrate Judge Mix issued a Recommendation on August 11, 2009 that the above-referenced motion be granted in part and denied in part. (Recommendation at 1.) The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B), Fed.R.Civ.P. 72(b).

The Recommendation advised the parties that specific written objections were due within ten (10) days after being served with a copy of the Recommendation.

(Recommendation at 7.) Despite this advisement, no objections to the Magistrate Judge's Recommendation were filed by either party.

"In the absence of timely objection, the district court may review a magistrate. . . [judge's] report under any standard it deems appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings").

Applying this standard, I am satisfied that the Recommendation of Magistrate Judge Mix is sound and that there is no clear error on the face of the record. See Fed.R.Civ.P. 72(a). Accordingly, it is hereby

ORDERED that the Recommendation of United States Magistrate Judge Kristen L. Mix (Doc. # 57), filed August 11, 2009, is AFFIRMED and ADOPTED, and Defendants' Motion to Strike Affidavits or, in the Alternative, Unopposed Motion to Suspend Briefing on Motion for Summary Judgment is GRANTED in part and DENIED in part.

IT IS FURTHER ORDERED that the Motion to Strike Affidavits is DENIED.

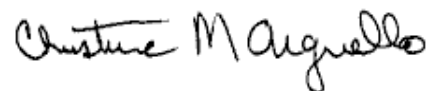
The Court notes that this case has been set for a five-day jury trial beginning February 22, 2010. With respect to additional discovery, briefing, and witness endorsements, the Court hereby ORDERS that the parties follow the dates set forth below:

No later than:

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|--------------------------|--|
| <b>October 13, 2009</b>  | Plaintiffs to produce all communications between them and Oertel and Lee;                                  |
| <b>November 13, 2009</b> | Defendants to take the depositions of Oertel and Lee and a supplemental deposition of Plaintiff Alexander; |
| <b>November 30, 2009</b> | Defendants to endorse rebuttal witnesses to the testimony of Oertel and Lee; and                           |
| <b>December 14, 2009</b> | Defendants to file a supplemental reply in support of the Motion for Summary Judgment.                     |

DATED: October   2  , 2009

BY THE COURT:



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CHRISTINE M. ARGUELLO  
United States District Judge