

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01248-REB-MEH

TODD A. AURIT,

Plaintiff,

v.

CHARLES OLIN, SOTMP, Therapist,  
ROBBIE BOLTON, SOTMP, Therapist,  
JOE STROMMEL, Mgr. SOTMP,  
BURL MCCLULLAR, Prog. Mgr. SOTMP,  
RUSTY LANDER, MHD, SOTMP, Cord [sic],  
SHANE MARTIN, Head of Mental Health,  
JOHN EVANS, Case Mgr., and  
CAROL MORTON, Case Mgr.,

Defendants.

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**NOTICE OF CONVERSION TO SUMMARY JUDGMENT**

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Defendants have filed a Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) (“motion”), alleging that Plaintiff fails to state a claim against the Defendants upon which relief may be granted [docket #33]. Plaintiff timely filed a response to the motion and Defendants a reply to the response. During the briefing, the Court requested additional briefing from the parties on a specific issue raised in the Amended Complaint. Defendants included such additional briefing in its reply and submitted evidentiary materials (an affidavit) in support of its motion.

Because Defendants wish to support the Motion to Dismiss with documents outside the pleadings, it is proper to inform the parties that the Court will convert the Motion to Dismiss into a Motion for Summary Judgment pursuant to Fed. R. Civ. P. 56. *See David v. City & County of Denver*, 101 F.3d 1344, 1352 (10th Cir. 1996). Consequently, either party may submit any

additional briefing on the Motion, and in such additional briefing, the Plaintiff may respond to the materials already submitted by the Defendants with any “material made pertinent to such a motion by Rule 56.” Fed. R. Civ. P. 12(c). Therefore, it is ORDERED that any additional briefing by either party must be submitted on or before **May 5, 2009**.

Dated at Denver, Colorado, this 14th day of April, 2009.

BY THE COURT:

s/ Michael E. Hegarty  
Michael E. Hegarty  
United States Magistrate Judge