

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

Civil Action No. 08-cv-01841-LTB-BNB

SHANNON BASTEDENBECK,

Plaintiff,

v.

ARISTEDES W. ZAVARES,
GARY GOLDER,
LARRY REID,
KENNETH MARTINEZ, and
JAMES E. ABBOTT,

Defendant.

ORDER

This matter arises on the following:

(1) **Defendant Ken Martinez’s Motion to Supplement the Scheduling Order to Include Defendant Ken Martinez’s Portion** [Doc. # 80, filed 9/3/2010] (the “Motion to Supplement”); and

(2) **Defendant Ken Martinez’s Motion to File Objections to Plaintiff’s Exhibits Pursuant to F.R.C.P. 26(a)(3)** [Doc. # 88, filed 9/28/2010] (the “Motion to File Objections”).

The plaintiff is an inmate in the Colorado Department of Corrections. Her claims arise from unlawful sexual contact by a corrections officer, Ken Martinez. Suit is brought against Martinez; Aristedes Zavares, the executive director of the DOC; Gary Golder, the director of prisons; Larry Reid, the warden at the correctional facility where the sexual contact occurred; James Abbott, the warden at the correctional facility where the plaintiff was transferred after the

sexual contact occurred; and John O'Rourke, a corrections officer not involved in the sexual contact but who is alleged to have denied the plaintiff access to her attorney. I have recommended that summary judgment be entered in favor of defendants Zavares, Golder, Reid, Abbott, and O'Rourke dismissing the plaintiff's claims as against them. Recommendation [Doc. # 91, filed 10/26/2010].

The Motion to Supplement [Doc. # 80] seeks an order amending the Final Pretrial Order to allow Martinez (1) to add an exhibit inadvertently omitted from the exhibit list and (2) replace Martinez's previous exhibit list to add the inadvertently omitted exhibit and renumber the exhibits. As required by D.C.COLO.LCivR 7.1A, the Motion to Supplement contains a certification of Martinez's attempts to confer about the relief sought, which reports:

The undersigned attempted to confer with attorney, Chris Ingold, attorney for Plaintiff, Shannon Bastedenbeck, on multiple occasions to ascertain his position on this amendment. At this time it is understood that Mr. Ingold opposes this motion.

Motion to Supplement [Doc. # 80] at ¶1. I ordered the plaintiff to file a response to the Motion to Supplement, Order [Doc. # 83, filed 9/9/2010], but none has been received.

The Motion to File Objections [Doc. # 88] seeks an order requiring the plaintiff to deliver copies of her exhibits to Martinez's counsel and allowing Martinez to file Rule 26(a)(3) objections to those exhibits after he has had an opportunity to review the exhibits. The Rule 7.1A certificate to this motion states:

The undersigned attempted to confer with attorney, Chris Ingold, attorney for Plaintiff, Shannon Bastedenbeck, on multiple occasions via email to ascertain his position on this amendment. No response has been provided to the undersigned. At this time it is understood that Mr. Ingold opposes this motion.

Motion to File Objections [Doc. # 88] at ¶1. Nor did the plaintiff file a response to the Motion to

File Objections.

I disapprove of the conduct of plaintiff's counsel in failing to fulfill his obligations under Rule 7.1A to meaningfully confer about matters to determine whether they are opposed. Rule 7.1A is designed to save the parties and the court time and effort in order to streamline proceedings. The conduct of plaintiff's counsel here frustrates those purposes and increases unnecessarily the burdens of litigation.

It is now apparent that Martinez's motions are unopposed.

IT IS ORDERED that:

(1) The Motion to Supplement [Doc. # 80] is GRANTED. The final pretrial order is amended, and the exhibit list attached to the Motion to Supplement is substituted for Martinez's previous exhibit list; and

(2) The Motion to File Objections [Doc. # 88] is GRANTED. The plaintiff shall serve on counsel for Martinez, on or before **November 12, 2010**, copies of all of the exhibits listed on the plaintiff's exhibit list which is attached to and made a part of the Final Pretrial Order [Doc. # 77]. Martinez shall file his Fed. R. Civ. P. 26(a)(3) objections and serve them on all counsel of record by hand delivery or facsimile no later than **November 23, 2010**.

Dated October 28, 2010.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge