

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

Civil Action No. 09-cv-01632-CMA-BNB

MARK SMITH, individually and on behalf  
of other similarly situated persons,

Plaintiff,

v.

PIZZA HUT, INC.,

Defendant.

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**ORDER**

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This matter arises on **Pizza Hut's Motion and Memorandum of Law for a Temporary Stay of Briefing on Conditional Certification Pursuant to the Scheduling Order and In the Interests of Economy and Fairness** [Doc. # 192, filed 4/21/2011] (the "Motion re Response"). The plaintiff opposes the motion arguing, among other things, that it is premature because the plaintiff has not moved for conditional certification. Plaintiffs' Response in Opposition [Doc. # 195, filed 5/2/2011] (the "Response").

A motion similar to the Motion re Response was filed in a companion case-- Darrow v. WKRP Management, LLC, 09-cv-01613-CMA-BNB. I granted that motion. Significantly, however, the plaintiff in Darrow had filed a motion for conditional certification. No such motion has been filed here. I agree with the plaintiff that a ruling on the Motion re Response, prior to the plaintiff seeking conditional certification, is premature.

IT IS ORDERED that the Motion re Response [Doc. # 192] is DENIED as premature.

Dated May 2, 2011.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge