

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

Civil Action No. 09-cv-02265-WYD-BNB

JOSEPH A. ELLSWORTH,

Plaintiff,

v.

PAT MONTEZ,
CHARLES OLIN,
A. ZAVARAS,
CATHY HOLST,
MARSHALL GRIFFITH,
PAULA FRANKTZ, and
BURL MCCULLAR,

Defendants.

ORDER

This matter arises on the plaintiff's **Response to Defendants Answer and Rule 12(B)(6)** [Doc #48, filed 03/08/2010] (the "Response"). The Response is moot.

On February 8, 2010, the defendants filed a motion to dismiss [Doc. #39]. In addition, defendant Frantz¹ filed an Answer [Doc. #40]. I ordered the plaintiff to file a response to the motion to dismiss on or before March 8, 2010 [Doc. #42]. On March 8, 2010, the plaintiff filed a response to both the Answer and the motion to dismiss [Doc. #48].

The Federal Rules of Civil Procedure provide that there shall be a complaint and answer. Fed.R.Civ.P. 7(a). Further pleadings are prohibited except that the court may order a reply to an

¹The plaintiff has incorrectly spelled this defendant's last name as "Franktz." I use the spelling provided by defendant Frantz.

answer. *Id.* The court has not ordered a reply, and my review of the pleadings shows that a reply is not necessary. Therefore, to the extent the plaintiff has filed a reply to defendant Frantz's Answer, the reply is not appropriate.

In addition, I permitted the defendants to file an amended motion to dismiss [Doc #45]. The defendants filed their amended motion to dismiss on March 3, 2010 [Doc. #46]. Therefore, the plaintiff's Response is moot. I ordered the plaintiff to respond to the amended motion to dismiss on or before April 8, 2010 [Doc #45]. The plaintiff has not filed a response to the amended motion to dismiss. Accordingly,

IT IS ORDERED that the plaintiff's "Response to Defendant Answer and Rule 12(B)(6)" [Doc #48] is moot.

IT IS FURTHER ORDERED that the plaintiff shall file a response to the defendants' "Amended Motion to Dismiss Pursuant of Fed.R.Civ.P. 12(b)(6)" [Doc. #46] on or before **May 14, 2010**. The response shall not include a reply to defendant Frantz's Answer.

Dated April 19, 2010.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge