

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 09-cv-02968-PAB-MEH

ERICK OMAR PADILLA-BACA,

Plaintiff,

v.

THE CITY OF AURORA, COLORADO,
AURORA POLICE DEPARTMENT,
PATRICIA PEREA, individually and in her professional capacity as a police officer,
RICHARD HEFTY, individually and in his professional capacity as a police officer, and
DAVID PEARSON, individually and in his professional capacity as a police officer,

Defendants.

ORDER

This matter is before the Court on plaintiff's "Opposition to Defendant's Motion for Summary Judgment" [Docket No. 71]. On February 15, 2011, defendants The City of Aurora, Colorado and Aurora Police Department, as well as Patricia Perea, Richard Hefty, and David Pearson in their official capacities, filed a motion for summary judgment ("Official Capacity Motion") [Docket No. 65]. Defendants Perea, Hefty, and Pearson filed a separate motion for summary judgment ("Individual Capacity Motion") [Docket No. 66] on February 15, 2011 asserting the defense of qualified immunity.

Defendants' motions both include a "Statement of Undisputed Material Facts," as required by Local Rule 56.1A, see D.COLO.LCivR 56.1A, and this Court's Practice Standards. See Practice Standards (Civil cases), Judge Philip A. Brimmer § III.F.3.b.i. Plaintiff was required to, in a section entitled "Response to Statement of Undisputed

Material Facts,” “admit or deny the asserted material facts set forth by the movant” and to provide “a brief factual explanation of the reason(s) for the denial and a specific reference to material in the record supporting the denial.” Practice Standards (Civil cases), Judge Philip A. Brimmer § III. F.3.b.iv. Plaintiff failed to do so. See Practice Standards (Civil cases), Judge Philip A. Brimmer § III. F.3.b.ix (“Failure to follow these procedures will result in an order striking or denying the motion or brief, and it will have to be re-submitted.”). Furthermore, from the docket entry and the substance of plaintiff’s response, plaintiff does not appear to be opposing the Official Capacity Motion.

Therefore, it is

ORDERED that plaintiff’s “Opposition to Defendant’s Motion for Summary Judgment” [Docket No. 71] is STRICKEN. Plaintiff may file a response which includes a “Response to Statement of Undisputed Material Facts” on or before **Friday, May 13, 2011**, such response not to include any additional argument without first requesting leave from the Court to submit a supplemental response out of time. It is further

ORDERED that, if plaintiff opposes the Official Capacity Motion [Docket No. 65], he may file a motion seeking leave to file a separate response out of time on or before **Friday, May 13, 2011**. In the absence of such a request, the Court will deem the Official Capacity Motion to be unopposed.

DATED May 4, 2011.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge