

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Magistrate Judge Craig B. Shaffer**

**Civil Action No.: 10-cv-02370-ZLW-CBS**  
**Date: December 2, 2010**

**FTR - Reporter Deck - Courtroom A402**  
**Courtroom Deputy: Linda Kahoe**

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JOHN THOMAS KILPATRICK, III,  
  
Plaintiff,

Evan S. Lipstein

v.

BOARD OF DIRECTORS OF THE FOOTHILLS  
FIRE PROTECTION DISTRICT, *et al.*,

January Dedrick Barrett  
Mark Overturf

Defendants.

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**COURTROOM MINUTES/MINUTE ORDER**

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**HEARING: TELEPHONIC MOTION HEARING**

**Court in session: 8:03 a.m.**

Court calls case. Appearances of counsel.

Discussion regarding Defendants' Unopposed Motion for Extension of Time in Which to File Responsive Pleading to Plaintiff's First Amended Complaint, doc #[18], filed 11/23/2010.

The court suggests that the current Motion to Dismiss, doc #[11], be treated as superceded by the Amended Complaint, and the Defendant could file a new Motion to Dismiss directed at the Amended Complaint. Counsel state no objection.

**ORDERED:** Defendants' Unopposed Motion for Extension of Time in Which to File Responsive Pleading to Plaintiff's First Amended Complaint, doc #[18], is **DENIED AS MOOT**. Defendants shall file an Answer or Otherwise Respond to the First Amended Complaint, doc #[13], by Friday **DECEMBER 10, 2010**.

Ms. Barrett makes an oral motion to withdraw the Motion to Dismiss, doc #[11].

**ORDERED:** Defendants' oral Motion to Withdraw the Motion to Dismiss is **GRANTED**. The Motion to Dismiss, doc #[11], is **WITHDRAWN WITHOUT PREJUDICE**.

The court states that the Scheduling Conference set for December 8<sup>th</sup> will go forward.

HEARING CONCLUDED.

**Court in recess: 8:12 a.m.**

Total time in court: 00:09

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