

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Christine M. Arguello**

Civil Action No. 10-cv-03086-CMA-BNB

GODWIN ABIKAM,

Plaintiff,

v.

QWEST CORPORATION,

Defendant.

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**ORDER GRANTING DEFENDANT'S MOTION TO STRIKE, OVERRULING  
PLAINTIFF'S OBJECTION/APPEAL OF MAGISTRATE JUDGE'S DECISION, AND  
AFFIRMING OCTOBER 17, 2011 MAGISTRATE JUDGE ORDER**

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This case was referred to United States Magistrate Judge Boyd N. Boland pursuant to 28 U.S.C. § 636 and Fed. R. Civ. P. 72. (Doc. # 13.) On October 17, 2011, the Magistrate Judge issued an Order denying Plaintiff's "Motion to Compel" (Doc. # 25). (Doc. # 33.) On November 30, 2011, Plaintiff filed a "Supplemental Argument in Support of Plaintiff's Motion to Compel" (Doc. # 41), which the Magistrate Judge—and this Court—interpreted as an objection to, or appeal of, the Magistrate Judge's decision (see *id.*). On December 5, 2011, Defendant filed a "Motion to Strike Plaintiff's Objection to Magistrate Judge Boland's Order Denying His Motion to Compel as Untimely," asserting that Plaintiff filed his objection or appeal well after the 14-day period allowed by Fed. R. Civ. P. 72(a). (Doc. # 43.)

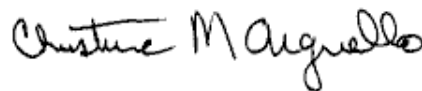
The Court agrees with Defendant that Plaintiff's objection or appeal (Doc. # 41) was untimely and, therefore, grants Defendant's motion to strike (Doc. # 43).

In the alternative, however, the Court also finds that Plaintiff's objection or appeal should be overruled. Because the Magistrate Judge's Order (Doc. # 33) involved nondispositive pretrial issues, Plaintiff needed to have demonstrated that the ruling was "clearly erroneous" or "contrary to law." Fed. R. Civ. P. 72(a). "The clearly erroneous standard . . . requires that the reviewing court affirm unless it 'on the entire evidence[,] is left with the definite and firm conviction that a mistake has been committed.'" *Ocelot Oil Corp. v. Sparrow Indus.*, 847 F.2d 1458, 1464 (10th Cir. 1988) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)). Having reviewed Plaintiff's objection, the Court finds that the Magistrate Judge's Order was not clearly erroneous or contrary to law.

Accordingly, Defendant's motion to strike (Doc. # 43) is GRANTED, Plaintiff's objection or appeal (Doc. # 41) is OVERRULED, and the Magistrate Judge's Order (Doc. # 33) is AFFIRMED.

DATED: December 16, 2011

BY THE COURT:



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CHRISTINE M. ARGUELLO  
United States District Judge