

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01027-CMA-MEH

PAUL W. SPENCE,

Plaintiff,

v.

LOUIS CABILING, MD, DOC,

Defendant.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on September 15, 2011.

Before the Court are Defendant's Motion to Dismiss Amended Complaint [filed September 6, 2011; docket #19], Defendant's Motion to Stay Discovery [filed September 13, 2011; docket #22], and Plaintiff's Motion for Extension of Time to File Response as to Motion to Dismiss [filed September 13, 2011; docket #26]. At the status conference on September 15, 2011, the Court noted that an "Amended Complaint" filed by Plaintiff on June 16, 2011 [docket #11] was not accepted as filed in a subsequent order issued by Judge Babcock on June 17, 2011 [docket #12]. Because Defendant's Motion to Dismiss and Defendant's Motion to Stay pertain to the non-operative "Amended Complaint," Defendant's motions are **denied without prejudice**. Plaintiff's Motion for Extension of Time to File Response as to Motion to Dismiss is **denied as moot**.

At the September 15, 2011 status conference, the Court ordered that Plaintiff file a Second Amended Complaint that is consistent with Judge Babcock's June 17, 2011 order on or before October 3, 2011 [docket #29]. Defendant shall respond to the Second Amended Complaint pursuant to Fed. R. Civ. P. 15(a); if he chooses to do so, Defendant may re-file his motion to dismiss and/or motion to stay discovery, both of which will pertain to Plaintiff's Second Amended Complaint.