

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Action No. 12-cv-02257-REB-KLM

DEAN CARBAJAL,

Plaintiff,

v.

ST. ANTHONY CENTRAL HOSPITAL, a corporation,  
CENTURA HEALTH, a corporation,  
APEX, a corporation,  
STEPHAN M. SWAN, Physician Assistant, in his individual capacity,  
GREGORY J. ENGLAND, Registered Nurse, in his individual capacity,  
MARCI L. HANSUE, Registered Nurse, in her individual capacity,  
MICHAEL O'NIELL, Police Officer for the Denver Police Department, in his individual capacity,  
JAY LOPEZ, Police Officer for the Denver Police Department, in his individual capacity,  
LARRY BLACK, Police Officer for the Denver Police Department, in his individual capacity,

Defendants.

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**ORDER DENYING MOTION FOR LEAVE TO FILE REPLY  
IN SUPPORT OF DENVER DEFENDANTS' OBJECTIONS TO  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

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**Blackburn, J.**

The matter before me is the **Motion For Leave To File Reply in Support of Denver Defendants' Objections to Recommendation of the United States Magistrate Judge** [#332],<sup>1</sup> filed June 15, 2015. Despite the title of the motion, defendants seek not merely to file a reply to plaintiff's response to their objections, but to submit evidence which they claim is dispositive of plaintiff's claim of excessive force

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<sup>1</sup> "[#332]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

against them. I deny the motion.

The law of this circuit clearly provides that “[i]ssues raised for the first time in objections to the magistrate judge's recommendation are deemed waived.” **See *Marshall v. Chater***, 75 F.3d 1421, 1426 (10<sup>th</sup> Cir. 1996). The arguments and evidence defendants seek to proffer here are even further removed from admissibility. Having failed to join these issues or present this evidence<sup>2</sup> either by their original motion or by their initial objections, defendants’ plainly have waived any right to require this court to consider them at this late juncture.

**THEREFORE, IT IS ORDERED** that the **Motion For Leave To File Reply in Support of Denver Defendants’ Objections to Recommendation of the United States Magistrate Judge** [#332], filed June 15, 2015, is denied.

Dated June 16, 2015, at Denver, Colorado.

**BY THE COURT:**



Robert E. Blackburn  
United States District Judge

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<sup>2</sup> Although defendants suggest that the evidence supporting these arguments is “new,” they provide no explanation about why these documents – which purportedly were received from the Denver Sheriff’s Department itself – were not earlier produced.