

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

Civil Action No. 13-cv-01125-REB-MJW

LELAND SMALL, individually and on behalf of a class of other similarly situated persons,

Plaintiff,

v.

BOKF, N.A.,

Defendant.

ORDER

Blackburn, J.

The matter before me is **Plaintiff's Motion For Leave To File a Supplemental Response in Opposition to Defendant BOKF's Motion For Summary Judgment [#45] [#83]**,¹ filed February 13, 2014.² For the reasons that follow, I deny the motion as moot.

Defendant filed its summary judgment motion early in this litigation. (**See BOKF's Combined Motion For Summary Judgment and Brief in Support [#45]**, filed August 14, 2013.) As set forth in the motion to file a supplemental response, discovery has been ongoing, as a result of which plaintiff has received some 8,000 documents relevant to the claims asserted herein. He avers that this production includes

¹ "[#83]" 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.

² Exercising my prerogative under D.C.COLO.LCivR 7.1(c), I consider the motion, which is opposed, without awaiting defendant's response.

documents “highly relevant to the pending motion for summary judgment” and thus seeks leave to file a supplemental response to argue these matters.

Having the parties address the various issues raised by and inherent to the motion for summary judgment in this piecemeal fashion is neither efficient nor efficacious. Given that the dispositive motion deadline is still several months away (**see Civil Scheduling Order ¶ 9 at 7** [#32], filed June 24, 2013 (dispositive motion deadline of May 28, 2014)), I conclude that the proper course of action under these circumstances is to deny the motion for summary judgment without prejudice, so that all issues raised by the evidence can be addressed and determined simultaneously. My determination in this regard further renders plaintiff’s motion to file a supplemental response moot.

THEREFORE, IT IS ORDERED as follows:

1. That **BOKF’s Combined Motion For Summary Judgment and Brief in Support** [#45], filed August 14, 2013, is **DENIED** without prejudice; and
2. That **Plaintiff’s Motion For Leave To File a Supplemental Response in Opposition to Defendant BOKF’s Motion For Summary Judgment** [#45] [#83], filed February 13, 2014, is **DENIED AS MOOT**.

Dated February 13, 2014, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge