

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 13-cv-02602-KMT

BARBARA BINION,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

MINUTE ORDER

ORDER ENTERED BY MAGISTRATE JUDGE KATHLEEN M. TAFOYA

Defendant's "Motion for Leave to File Motion to Dismiss for Lack of Jurisdiction" (Doc. No. 25, filed Aug. 20, 2014) is GRANTED. While the court acknowledges that Plaintiff opposes Defendant's motion—presumably because it was filed after the Dispositive Motions Deadline—Fed. R. Civ. P. 12(h)(3) provides that "[i]f the court determines *at any time* that it lacks subject-matter jurisdiction, the court *must* dismiss the action." (emphasis added). As such, the expiration of the dispositive motions deadline cannot foreclose the filing of a motion to dismiss under Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction. The Clerk of Court is directed to file Defendant's "Motion to Dismiss for Lack of Jurisdiction Pursuant to Fed. R. Civ. P. 12(b)(1)." (Doc. No. 25-1.)

Plaintiff shall respond to Defendant's Motion to Dismiss no later than September 10, 2014. Defendant may file a reply no later than September 24, 2014.

Dated: August 21, 2014