

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02379-RM-MJW

JOSHUA LAMONT SUTTON,

Plaintiff,

v.

MATTHEW VANLEEUEWEN,
BRIAN GOWIN,
ANTHONY RODERICK, and
FRAN LAPAGE,

Defendants.

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby ORDERED that Plaintiff's Sworn Motion for an Order Compelling Disclosure and Sanctions Regarding Gowin's Failure to Produce Video/Audio Recordings (Docket No. 130, p.1) and Plaintiff's Sworn Motion for an Order Compelling Disclosure and Sanctions Regarding Van Leeuwen's Failure to Produce Dash Camera Video Recordings (Docket No. 130, p.2) are both DENIED.

Defendants' obligation under Federal Rule of Civil Procedure 26(a)(1)(A)(ii) is to produce all documents or other records in the party's control that the party "may use to support its claims or defenses." If Defendants do not intend to use the videos in question as evidence, they are not required to disclose them under Rule 26(a)(1). See Fed. R. Civ. P. 26, advisory committee's note to 2000 Amendments ("A party is no longer obligated to disclose witnesses or documents, whether favorable or unfavorable, that it does not intend to use."). Defendants *are* required to disclose such evidence pursuant to a proper discovery request under Rule 34, assuming the videos are relevant and are in Defendants' custody, possession, or control – but Rule 26(a)(1) does not impose this duty.

Date: November 3, 2015
