

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00871-KLM

BRADLEY D. OASTER,

Plaintiff,

v.

STANLEY ROBERTSON,

Defendant.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on: (1) the Court's **Minute Order** [#30]¹, which informed the parties that Defendant's **Motion to Dismiss Pursuant to 12(b)(1), 12(b)(2) and 12(b)(6) and if Necessary, Request for Evidentiary Hearing** [#18] (the "Pending Motion") was being converted to a Rule 56 motion; (2) Defendant's **Motion for Summary Judgment and Renewed Motion Pursuant to 12(b)(1) and 12(b)(6)** [#31] and the supporting Brief [#32] (collectively, the "New Motion"); and (3) Defendant's **Amended Supplemental Brief in Support of Motion for Summary Judgment** [#35] (the "Supplemental Brief"). The Minute Order provided the parties with notice that the Pending Motion was being converted from a Rule 12 motion to a Rule 56 motion and allowed the parties to further brief the issues if the parties believed that the issues were not sufficiently addressed in the initial briefing:

the parties are hereby notified that the Court is converting the Motion to a Rule 56 motion for summary judgment. The Court will allow the parties an opportunity to submit **supplemental briefs of not more than 10 pages each, excluding exhibits**, should they wish to do so.

Minute Order [#30] at 2 (emphasis in original). The Court set October 23, 2015 as the deadline for Defendant to file his supplemental brief. *Id.*

¹ "[#30]" 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 Minute Order.

Defendant filed the New Motion on October 23, 2015. The New Motion argues the same issues raised in the Pending Motion, but exceeds the page limit set in the Minute Order. The following day, Defendant filed the Supplemental Brief, which states that it was submitted “to comply with the Court’s order to restrict the supplemental brief to 10 pages” *Supplemental Brief* [#35] at 1. The Court understands from this language that the New Motion was filed in error. As a result, the Court will deny the New Motion as moot because it is duplicative of the issues raised in the Pending Motion and the Supplemental Brief. Accordingly,

IT IS HEREBY **ORDERED** that the New Motion [##31, 32] is **DENIED as moot**. An order on the Pending Motion and Supplemental Brief will issue in due course.

Dated: October 26, 2015