

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 20-cv-03014-MEH

JENNIFER FOCKE,

Plaintiff,

v.

IRENE CONANT ALLEN,

Defendant.

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**ORDER**

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**Michael E. Hegarty, United States Magistrate Judge**

Defendant has filed a Motion to Dismiss and Alternatively, Motion for More Definite Statement. ECF 14. The Motion raises several issues with the claims in the Complaint, principally the statute of limitations. It is evident that resolution of most of the arguments made in the Motion will require the Court to consider matters outside the pleadings, which in some circumstances is appropriate, but the breadth of Defendant’s requested consideration of outside material is considerable. Although a court may convert a motion to dismiss and consider the arguments as a summary judgment motion, the current briefing did not occur with that in mind. However, given the nature of Defendant’s arguments, I believe it is consistent with Fed. R. Civ. P. 1 to permit Defendant to file an early motion for summary judgment without prejudice to filing a subsequent motion after discovery is completed. Therefore, although I will **deny** the Motion to Dismiss and Alternatively, Motion for More Definite Statement [filed November 17, 2020; ECF 14], I grant Defendant leave to file a motion for summary judgment on or before January 15, 2021 with an expedited briefing schedule (as the parties are already well aware of the issues). If Defendant

chooses to file such a motion, the response shall be filed within 14 calendar days of the docketing of the motion, and a reply within five calendar days of the docketing of the response. The Court will be prompt in issuing a ruling on such motion.

SO ORDERED.

Entered this 7th day of January, 2021, at Denver, Colorado.

BY THE COURT:

A handwritten signature in black ink that reads "Michael E. Hegarty". The signature is written in a cursive, flowing style.

Michael E. Hegarty  
United States Magistrate Judge