

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

GILL W. JASMINE, SR. (#380255)

CIVIL ACTION

VERSUS

BURL CAIN, ET AL.

NO. 12-0743-JJB-RLB

ORDER

This matter comes before the Court on the plaintiff's Motion to Submit Evidence in Objection to Defendants' Motion to Dismiss (Rec. Doc. 102). This Motion is opposed.

Whereas the defendants are correct that a Motion to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure tests the legal sufficiency of the plaintiff's Complaint and is evaluated by the Court on the basis of the allegations of the Complaint alone, together with any attachments thereto, *see Financial Acquisition Partners LP v. Blackwell*, 440 F.3d 278, 286 (5th Cir. 2006), the Court is entitled, pursuant to Fed. R. Civ. P. 12(d), to consider evidentiary submissions and to thereby convert the Motion to Dismiss to one for Summary Judgment brought pursuant to Fed. R. Civ. P. 56. Accordingly,

IT IS ORDERED that the defendants' Motions to Dismiss (Rec. Docs. 21 and 59) be and they are hereby converted to Motions for Summary Judgment brought pursuant to Fed. R. Civ. P. 56.

IT IS FURTHER ORDERED that the plaintiff's Motion to Submit Evidence in Objection to Defendants' Motion to Dismiss (Rec. Doc. 102) be and it is hereby **GRANTED**,

and the Clerk of Court is directed to accept the exhibits attached to the plaintiff's Motion as exhibits filed in opposition to the defendants' Motions to Dismiss.

Signed in Baton Rouge, Louisiana, on December 26, 2013.

A handwritten signature in blue ink, appearing to read "R. L. Bourgeois, Jr.", is written over a horizontal line.

RICHARD L. BOURGEOIS, JR.
UNITED STATES MAGISTRATE JUDGE