

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**MARY F. McNEESE, as Personal Representative and  
Spouse of TINA MARIE McNEESE, Deceased,**

**Plaintiff,**

vs.

**No. 1:17-cv-01164-KWR-KK**

**UNITED STATES OF AMERICA,**

**Defendant.**

**ORDER DENYING AS MOOT DEFENDANT'S MOTION TO STRIKE  
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT,  
OR IN THE ALTERNATIVE, MOTION FOR EXTENSION OF TIME**

**THIS MATTER** came before the Court on *Defendant's Motion to Strike Plaintiff's Motion for Summary Judgment, or in the Alternative, Motion for Extension of Time* (Doc. 104) filed on **July 17, 2021**.

The Court **HEREBY FINDS**:

1. Counsel for Plaintiff filed *Plaintiff's Motion for Partial Summary Judgment on the Issue of Breach of the Standard of Care by the Emergency Department Physician* (Doc. 101) on **July 9, 2021**.

2. The Court entered its *Order Setting Expedited Briefing Scheduling* (Doc. 102) on **July 12, 2021** expediting the briefing schedule of Plaintiff's motion for the purposes of judicial economy and bringing this cause of action to trial in a timely manner.


3. Counsel for Defendant filed *Defendant's Motion to Strike Plaintiff's Motion for Summary Judgment, or in the Alternative, Motion for Extension of Time* (Doc. 104) on **July 17, 2021** contesting the untimely filing of Plaintiff's motion and requesting that the Court strike

Plaintiff's motion or, in the alternative, extend the briefing deadlines set forth in its previous Order to allow counsel for Defendant additional time to respond to Plaintiff's motion.

4. Since that time, counsel for Plaintiff filed a *Notice of Withdrawal of Plaintiff's Motion for Partial Summary Judgment on the Issue of Breach of the Standard of Care by the Emergency Department Physician* (Doc. 107) on **July 21, 2021** withdrawing the motion (Doc. 101) and rendering Defendant's motion (Doc. 104) moot.

**IT IS THEREFORE ORDERED THAT** *Defendant's Motion to Strike Plaintiff's Motion for Summary Judgment, or in the Alternative, Motion for Extension of Time* (Doc. 104) is **DENIED AS MOOT.**

**IT IS SO ORDERED.**

  
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**KEA W. RIGGS**  
**UNITED STATES DISTRICT JUDGE**