

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

BOBBY GUTIERREZ, in his capacity as Wrongful
Death Personal Representative of the Estate of
ROBERT P. GUTIERREZ,

Plaintiff,

vs.

1:21-cv-00073-KWR-SCY

UNI TRANS, L.L.C., UNITRANS, L.L.C.,
CEVA LOGISTICS, U.S., INC. and
CEVA GROUND US., LP,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court upon Defendants' motion to apply this Court's Memorandum Opinion and Order filed August 9, 2023 (Doc. 281) to CEVA Ground US, LP. Doc. 290. Having reviewed the parties' pleadings and applicable law, the Court finds that Defendants' motion is well taken and therefore, **GRANTED**.

BACKGROUND

This Court granted Defendants' Motions for Summary Judgment (Docs. 236 and 281). Due to the timing of filings, CEVA Defendants did not include CEVA Ground US, LP in their original Motion for Summary Judgment. Doc. 236. Defendants contend the facts, arguments, reasoning, and evidence within the Motion for Summary Judgment and the Reply in Support of the Motion for Summary Judgment apply equally to CEVA Ground US, LP. Doc. 290. Defendants assert Defendants Uni Trans, LLC and Unitrans, LLC take no position regarding this request. Plaintiff has not filed a response to Defendants' motion within the prescribed time period under D.N.M.LR-Civ. 7.4(a). *Id.*

LEGAL STANDARD

Under D.N.M.LR-Civ. 7.1(b), “[t]he failure to file and serve a reply in support of a motion within the time prescribed for doing so constitutes consent that briefing on the motion is complete.”

Under D.N.M.LR-Civ. 7.4(a), “[a] response must be served and filed within fourteen (14) calendar days after service of the motion. A reply must be served and filed within fourteen (14) calendar days after service of the response. These time periods are computed in accordance with FED. R. CIV. P. 6(a) and (d) and may be extended by agreement of all parties. For each agreed extension, the party requesting the extension must file a notice identifying the new deadline and the document (response or reply) to be filed. If an extension of time is opposed, the party seeking the extension must file a separate motion within the applicable fourteen (14) day period. An extension of briefing time must not interfere with established case management deadlines.”

DISCUSSION

Defendants CEVA Logistics, U.S., Inc. and CEVA Ground, US, LP ask this Court to apply its Memorandum Opinion and Order filed August 9, 2023, to CEVA Ground US, LP. Doc. 281. CEVA Defendants did not include CEVA Ground US, LP in their original Motion for Summary Judgment. Doc. 236. Defendants assert the facts, arguments, reasoning, and evidence within the Motion for Summary Judgment and the Reply in Support of the Motion for Summary Judgment apply equally to CEVA Ground US, LP. Doc. 290. Movants assert Defendants Uni Trans, LLC and Unitrans, LLC take no position regarding this request. Plaintiff has not filed a response to Defendants’ motion within the prescribed time period under D.N.M.LR-Civ. 7.4(a). *Id.*

This Court agrees. The facts, arguments, reasoning, and evidence within this Court’s August 9, 2023, Memorandum Opinion and Order apply equally to CEVA Ground US, LP. Furthermore, under D.N.M.LR-Civ. 7.4(a), “[a] response must be served and filed within fourteen (14) calendar days after

service of the response.” Neither Plaintiff nor Defendants Uni Trans, LLC and Unitrans, LLC have filed a response to the Motion in question to date, let alone within the prescribed time period under D.N.M.LR-Civ. 7.4(a). This Court sees no reason as to why this Court’s August 9, 2023, opinion does not apply equally here. Therefore, this Court finds Defendants’ motion is well taken.

CONCLUSION

For the reasons stated above, the Court grants Defendants’ motion (Doc. 290).

IT IS THEREFORE ORDERED that Defendants’ Motion to Apply the Memorandum Opinion and Order Filed August 9, 2020 (Doc. 290) is hereby **GRANTED** as described above.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE