

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

AG EQUIPMENT COMPANY,)
and EDWARD T. KURTZ, in his)
capacity as Trustee of the Suzanne)
Ash Kurtz Revocable Trust,)
)
Plaintiffs,)
)
v.)
)
MARK HEIDENREITER,)
)
Defendant.)

Case No. 07-CV-0556-CVE-PJC

ORDER AND OPINION

This matter comes on for consideration of the Motion by Defendant Heidenreiter to Dismiss the Action under Rule 11 (Dkt. # 384) and the Motion by Defendant Heidenreiter for Partial Summary Judgement (Dkt. # 385) filed on March 6, 2009. The dispositive motion deadline in this case was December 22, 2008 and defendant did not request an extension of this deadline to file his motions. Dkt. # 164. Defendant’s motion for summary judgment (Dkt. # 385) clearly constitutes a dispositive motion and it should be stricken as untimely. Defendant’s motion to dismiss (Dkt. # 384) seeks dismissal of plaintiff’s claims against him under Fed. R. Civ. P. 11, and it may not qualify as a dispositive motion under the scheduling order. However, the motion gives no indication that defendant has complied with the procedural requirements to file a Rule 11 motion, such as the safe harbor provision of Rule 11(c)(2). Even if defendant’s motion to dismiss is not a true dispositive motion, it should be stricken due to defendant’s failure to fully comply with Rule 11 when filing this motion. Defendant’s pro se status does not excuse his non-compliance with the Court’s orders and the Federal Rules of Civil Procedure, and both of his motions should be stricken.

See Garrett v. Selby Connor Maddux & Janer, 425 F.3d 836, 840 (10th Cir. 2005) (“Although ‘[a] pro se litigant’s pleadings are to be construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers,’ . . . ‘pro se parties [must] follow the same rules of procedure that govern other litigants’”).

IT IS THEREFORE ORDERED that the Motion by Defendant Heidenreiter to Dismiss the Action under Rule 11 (Dkt. # 384) and the Motion by Defendant Heidenreiter for Partial Summary Judgement (Dkt. # 385) are **stricken**.

DATED this 9th day of March, 2009.



CLAIRE V. EAGAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT