

VERMONT SUPERIOR COURT
Lamoille Unit
154 Main Street
Hyde Park VT 05655
802-888-3887
www.vermontjudiciary.org



CIVIL DIVISION
Case No. 25-2-20 Lecv

Alexandre Peides de Bothuri et al vs. Lizotte

ENTRY REGARDING MOTION

Title: Motion to Dismiss Motion for Summary Judgment (Motion: 15)
Filer: Nicholas Lizotte
Filed Date: August 20, 2021

The motion is DENIED.

A response to the Plaintiffs' Motion for Summary Judgment was due July 1, 2021. No timely response was filed. This Motion, while labeled a Motion to Dismiss Motion for Summary Judgment, is clearly intended as a response to the Plaintiffs' Motion for Summary Judgment. It was filed over 7 weeks after the due date with no attempt to justify the lateness.

Rule 6 (b) of the Vermont Rules of Civil Procedure provides that when an act "must be done within a specified time, the court may, for good cause, extend the time . . . if a request is made before the original time. . . expires." Defendant made no timely request for an extension of time. The rule further provides that if a motion to extend time is made after the time has expired, the court may extend the time for "excusable neglect." *Id.* Defendant has made no effort to show excusable neglect in the timing of the filing of this motion.

Moreover, even if the court were to provide additional time for Defendant to show "excusable neglect," as a response to the pending Motion for Summary Judgment, the filing does not comply with the required procedures set forth in Rule 56 for responding to a Motion for Summary Judgment, making it difficult for Plaintiffs to frame a response and for the court to sort out whether alleged facts were properly supported. See V.R.C.P. Rule 56 (c). The Motion also does not set forth grounds for "dismissal" of the Motion for Summary Judgment.

The court will not require Plaintiffs to respond to a motion that is filed seriously late without justification and filed in a format that is so out of compliance with the Rules of Civil Procedure that the Plaintiffs would be prejudiced in having to spend time and resources in figuring out how to respond.

While the court realizes that Mr. Lizotte is representing himself, the court is also mindful of prejudice to opposing parties with counsel if they have to incur unnecessary attorneys' fees in having to respond to filings that are seriously noncompliant with the civil rules. It is also noted some of the issues raised in this motion are the same as issues that the court has determined require further hearing in any event,

so that Defendant will have an opportunity to present evidence on those issues. See ruling on Motion for Summary Judgment.

Electronically signed pursuant to V.R.E.F. 9(d) on August 30, 2021 at 2:11 PM.

Mary Miles Teachout
Mary Miles Teachout
Superior Court Judge