

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Case No. 08-cv-02517-RPM-MEH

MURRY L. SALBY,

Plaintiff,

vs.

PROVOST PHILLIP DISTEFANO,

Defendant.

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**RESPONSE TO MOTION FOR SUMMARY JUDGMENT**

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Plaintiff, Murry L. Salby, by and through his attorney, Robert M. Liechty of CROSS & LIECHTY, P.C., responds to defendant's motion for summary judgment by incorporating the unopposed motion to dismiss. Given the discovery produced by Mr. Distefano in his summary judgment brief, Professor Salby will file a slightly different complaint in state court and the matter can be reasserted there under the new allegations.

WHEREFORE, plaintiff Salby respectfully requests that this Court not rule on the motion for summary judgment, but, instead, dismiss the case so that Professor Salby may refile it in state court.

Respectfully submitted this March 18, 2009.

By: s/ Robert M. Liechty  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this March 18, 2009, a true and correct copy of the above and foregoing **RESPONSE TO MOTION FOR SUMMARY JUDGMENT** was, unless otherwise indicated, filed electronically with the Court who provides notice to the following:

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s/ Linda L. DeVico