

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

NICHOLAS HARRISON, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	1:18-cv-641 (LMB/IDD)
	)	
MARK ESPER, Secretary of Defense, <u>et al.</u> ,	)	
	)	
Defendants.	)	
	)	

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RICHARD ROE, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	1:18-cv-1565 (LMB/IDD) ✓
	)	
MARK ESPER, Secretary of Defense, <u>et al.</u> ,	)	
	)	
Defendants.	)	
	)	

ORDER

In these related civil actions, the parties are presently engaged in summary judgment briefing pursuant to the Court’s March 11, 2020 Order. [Harrison, Dkt. 249; Roe, Dkt. 260]. In accordance with that Order, plaintiffs submitted their motion for summary judgment on May 4, 2020, and defendants’ submitted their brief in opposition and cross-motion for summary judgment on June 3, 2020; however, defendants also submitted a separate “Motion to Exclude Evidence,” in which they “move to exclude consideration of certain irrelevant, unreliable, or otherwise inadmissible evidence relied upon by [p]laintiffs.” Defendants’ submission of two separate pleadings in response to plaintiffs’ motion for summary judgment was not authorized by the Court’s March 11, 2020 Order and therefore was not proper. Any objection to evidence relied

on in a party's motion for summary judgment should be raised in the opposing party's response brief, not in a separate motion seeking its exclusion, particularly given that the parties' have each been allotted a generous 110 pages for their summary judgment briefing. For these reasons, it is hereby

ORDERED that defendant's Motion to Exclude Evidence [Harrison, Dkt. 274; Roe, Dkt. 286] be and is DENIED; and it is further

ORDERED that plaintiff's Motion for Extension of Briefing Deadlines [Harrison, Dkt. 279; Roe, Dkt. 290] be and is DENIED as moot.

The Clerk is directed to forward copies of this Order to counsel of record.

Entered this 10<sup>th</sup> day of June, 2020.

Alexandria, Virginia

*/s/ LMB*  
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Leonie M. Brinkema  
United States District Judge