

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SUNFLOWER BANK, N.A.,

Plaintiffs,

vs.

Case No. 09-4006-SAC

FEDERAL DEPOSIT INSURANCE
CORPORATION, as RECEIVER FOR
THE COLUMBIAN BANK & TRUST CO.,

Defendant.

MEMORANDUM AND ORDER

This case comes before the court on plaintiff's motion for leave to file briefs supplementing its summary judgment memoranda. Defendant opposes the motion.

Plaintiff contends that the Dodd-Frank Wall Street Reform and Consumer Protection Act, passed on July 21, 2010 "appears to present new issues in the present case." Dk. 39, p. 2. FDIC opposes the motion, contending that plaintiff should not be permitted to interject new claims into the case, and must instead amend its Complaint. FDIC additionally states that the provision of the new law cited by the plaintiff has no application to this case. Dk. 40, p. 2.

The court notes that a Pretrial Order was filed in this case on May 12, 2010, which supersedes all pleadings and controls the subsequent course of the case. Fed.R.Civ.P. 16(d). Its purpose is "to narrow the issues and thereby streamline litigation, and prevent surprise." *Trujillo v. Uniroyal Corp.*, 608 F.2d 815, 818 (10th Cir.1979). The Court agrees that plaintiff cannot, by briefing, add to the claims made in

the Pretrial Order.

Nonetheless, the Court grants the motion in part because supplemental briefing may be of assistance to its resolution of the present case. Plaintiff shall be permitted to file by August 20, 2010, one additional brief for the purpose of noting specific provisions of the new law and how they affect specific issues in the Pretrial Order. Defendant shall be permitted to file a response no later than September 3, 2010. No reply brief shall be permitted. Briefs shall be limited to 15 pages total.

SO ORDERED.

Dated this 4th day of August, 2010, at Topeka, Kansas.

s/ Sam A. Crow
Sam A. Crow, U.S. District Senior Judge