

APPEAL NO.: 06-1378

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

DAN YATES, *an individual*,

Appellant,

v.

ANGELA ARKIN, *in her individual and official capacities*,

MARY J. MULLARKEY, *in her official capacity*

DOUGLAS COUNTY, *a municipality*

DORIS TRUHLAR, *an individual*,

TRUHLAR AND TRUHLAR, L.L.C., *a Colorado Law Firm*,

ELODE BRODBECK, *an individual*,

THE CHILD AND FAMILY CENTER, INC., *a Colorado corporation*,

CLAIRE PURCELL, *in her individual and professional capacities*, and

LOUISE YATES, *an individual*,

Appellees.

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**PRO SE APPELLANT'S MOTION TO STRIKE APPELLES' JOINT ANSWER  
BRIEF AS SUBMITTED**

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COMES NOW, *Pro se* Appellant, Dan Yates, and submits his *Motion to Strike Appellees' Joint Answer Brief as Submitted*, and states as follows:

This Court cannot require the Appellant to fashion a response to the Appellees Joint Answer Brief, as submitted. The Appellees' Answer Brief is insufficient as a matter of law.

Appellees have not properly referenced the record in their Answer Brief, as mandated by Fed.R.App.P. 10 and 28, and 10th Cir. R. 10, 28.1 and 28.2. The Appellant is unable to locate portions of the record referenced in the Appellees' Answer Brief. The Appellees' Answer Brief must be stricken as submitted. *Accord* 10th Cir. R. 25.4 (2007).

FILED  
JAN 20 2007  
Clerk  
DANIELA SHUMAKER  
United States Court of Appeals  
for the Tenth Circuit

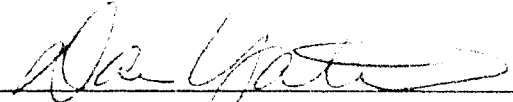
This Court must enforce its rules. *See Continental Airlines v. City and County of Denver*, 266 P.2d 400, 403 (Colo. 1954). The Parties must rely upon the rules as written. *Id.* The decision to sit idly by and let the Appellees configure the record is likely to prove fraught with consequence. *See Kelly v. United States*, 924 F.2d 335, 358 (1<sup>st</sup> Cir. 1991). References to the appendix must be by page number. *See* 10th Cir. R. 28; *but see generally* Appellees' Joint Answer Brief.

The Appellees argument does not contain the Appellees' contentions, and the reasons for them, with proper reference to the record on which the Appellees rely. *See* F.R.A.P. 28(a)(9) and (b) (2007). It is the Appellees responsibility to provide the applicable portions of the record and proper references to support their arguments. *See generally Scott v. Hern*, 216 F.3d 897, 912 (10th Cir. 2000). The Appellant filed his record on October 27, 2006. Moreover, the Appellant filed an Appendix with his Opening Brief on November 13, 2006. The Appellees did not file a Supplemental Appendix with their Answer Brief. *But see* 10th Cir. R. 30.2(A).

The Appellant is not required to invent references to the record in the absence of proper citations. *See United States v. Rodriguez - Aguirre*, 108 F.3d 1228, 1237, n. 8 (10th Cir. 1997). Moreover, it is not the Court's duty to locate pertinent materials when proper citation to the record is not provided. *Rio v. Bigler*, 67 F.3d 1543, 1553 (10th Cir. 1995). Proper reference to the record is necessary for this Court to render a decision. *See Fayerweather v. Rich*, 195 U.S. 276 (1904). This Court has previously stricken Appellees' Joint Answer Brief for failure to comply with the Federal Rules of Appellate Procedure.

**WHEREFORE** the Appellees' Joint Answer Brief must be stricken as submitted.

Respectfully submitted this 29<sup>th</sup> Day of January 2007, by:

  
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Dan Yates, *Pro Se* Appellant

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**CERTIFICATE OF MAILING**

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I hereby certify that a true and correct copy of the foregoing document: **PRO SE APPELLANT'S MOTION TO STRIKE APPELLES' JOINT ANSWER BRIEF AS SUBMITTED**, was filed via hand-delivery, facsimile, ECF, e-mail and/or placed in the United States mail, postage prepaid, addressed to the following at their respective addresses on this 29<sup>th</sup> Day of January, 2007.

United States Court of Appeals for the Tenth Circuit *(via Hand-Delivery)*  
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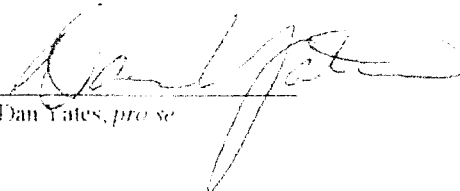
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