IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

JAMES DEMARCO, et al., Plaintiffs, vs. MICHAEL LAPAY, et al., Defendants.	MEMORANDUM DECISION AND ORDER GRANTING DEFENDANT PALADIN DEVELOPMENT PARTNERS, LCC'S MOTION TO STRIKE PLAINTIFFS' NOTICE OF NAME AND IDENTITY OF DEFENDANT Case No. 2:09-CV-190 TS

This matter is before the Court on Defendant Paladin Development Partners, LLC's ("Paladin") Motion to Strike Plaintiffs' Notice of Name and Identity of Defendant Referred to in Paragraph 88 of Plaintiffs' Complaint ("Notice").[1] Although this Motion was filed in October of 2010, to date, no response has been filed. Pursuant to DUCivR 7-1(d), "[f]ailure to respond timely to a motion may result in the court's granting the motion without further notice."

Having considered the merits of the Motion, the Court enters the following findings:

[1]Paladin's Motion is filed at Docket No. 60. Plaintiffs' Notice is filed at Docket No. 54.

1. Plaintiffs' Notice appears to be an attempt to amend Plaintiffs' Complaint or add a party to this litigation.[2]

2. Plaintiffs have not sought or obtained leave of the Court to amend their Complaint. Plaintiffs have not sought or obtained consent from Paladin to amend their Complaint.

3. The deadline for amending the Complaint in this matter or adding parties, pursuant to the Scheduling Order entered by the Court, was May 1, 2010. This date has passed.

Based on the foregoing, Plaintiffs have failed to comply with the Federal Rules of Civil Procedure and this Court's Scheduling Order. Plaintiffs' Notice appears to be an improper attempt to circumvent the Rules. Consequentially, the Court will strike Plaintiffs' Notice.

It is therefore

ORDERED that Paladin's Motion to Strike (Docket No. 60) is GRANTED. Plaintiffs' Notice of Name and Identity of Defendant Referred to in Paragraph 88 of Plaintiffs' Complaint (Docket No. 54) is hereby STRICKEN.

DATED May 26, 2011.

BY THE COURT:

TED STEWART
United States District Judge

[2]*See* Docket No. 54, at 1-2 (indicating that a copy of the Notice will be sent to the person named "so that such person may appear").