

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 06-cv-02148-LTB-BNB

DARRELL FORTNER, and
JENNIFER FORTNER, d/b/a Diamond/Dundee Tree Service,

Plaintiffs,

v.

ATF AGENTS DOG 1, CAT 2, AND HORSE 3 in their individual capacities,
THE CITY OF COLORADO SPRINGS,
MAYOR LIONEL RIVERA, individually and in his official capacity as Mayor of C/S,
KATHY YOUNG, individually and in her official capacity as City Clerk of C/S,
DARREL PEARSON, individually and in his official capacity as City Forrester of C/S,
JAMES A. CHOATE, in his individual capacity as Sergeant for El Paso County Sheriff's Office,
TERRY MAKETA, in his individual capacity as Sheriff of El Paso County, Colorado,
SHANE WHITE, individually and in his official capacity as Asst. City Attorney for the City of
Colorado Springs, Co., and
JAMES E. MCGANNON, individually and in his official capacity as City Forrester for the City
of Colorado Springs, CO,

Defendants.

ORDER

This matter is before me on **Plaintiffs' First Amended Motion of County Defendants' Fraud and Attempted Fraud on the Court and Request for Sanction** [Doc. #348, filed 01/11/2010] (the "Motion"). The Motion is DENIED.

The plaintiffs seek sanctions against defendants Maketa and Choate (the "County Defendants") for allegedly submitting fraudulent documents with their motion for summary judgment [Doc. #241, filed 09/17/2008]. The plaintiffs do not provide any authority to support their request for sanctions, and their accusations of fraud are unsupported. Indeed, it appears that

the plaintiffs' motion for sanctions is actually a supplemental and belated attempt to oppose the defendants' summary judgment motion.

The plaintiffs also request that "this court convert plaintiffs motion Doc #348 into a motion for summary judgment rule 56 motion." *Plaintiffs' Reply to County Defendants' Response* [Doc. #365]. The request is frivolous. The dispositive motion deadline expired on August 21, 2008. The plaintiffs have not acknowledged the expiration of the deadline, nor have they shown good cause to amend the Scheduling Order to extend it.

Finally, the plaintiffs request that the court "reverse all other orders/judgments which were against Plaintiffs in this action." *Id.* That request is also frivolous and is denied.

IT IS ORDERED that the Motion is DENIED.

Dated April 9, 2010.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge