

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 06-cv-02303-WYD-MJW

MR. RALPH MERCADO,

Plaintiff,

v.

MR. R. WILEY, ET AL.,

Defendants.

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby **ORDERED** that the pro se plaintiff's Motion to Throw Out Plaintiff's Deposition Dated July 21, 2009 (Docket No. 167) is granted in part and denied in part. More specifically, the motion is denied with respect to plaintiff's request that the deposition be stricken. The motion is granted with respect to plaintiff's request that he be permitted 30 days to review the transcript and sign a statement listing the changes in form or substance and the reasons for making them.

Plaintiff seeks to have his deposition stricken because it was allegedly not taken pursuant to Fed. R. Civ. P. 30(b)(5). More specifically, plaintiff contends that the court reporter before whom the deposition was taken did not begin the deposition with an on-the-record statement that included her name and business address; the date, time, and place of the deposition; the defendant's name; and the identity of all persons present. It does not appear from the transcript pages submitted by the defendant that the court reporter made such on-the-record statements as required by Rule 30(b)(5). The transcript, however, includes all such information, and plaintiff has not shown any prejudice by not having such information stated on the record at the beginning of the deposition. Therefore, the deposition will not be stricken as requested by plaintiff.

Plaintiff also seems to request 30 days to review the deposition transcript, claiming that he has not been given such time as required by Fed. R. Civ. P. 30(e)(1). In their response (Docket No. 171), defendants did not address this claim. Therefore, plaintiff's request for such 30 days to review the transcript shall be granted.

Date: September 3, 2009
