

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 07-cv-02563-RPM

JETAWAY AVIATION, LLC, a Colorado Limited Liability Company,

Plaintiff,

v.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MONTROSE,
COLORADO;
MONTROSE COUNTY BUILDING AUTHORITY, a Colorado Nonprofit Corporation;
JET CENTER PARTNERS, LLC, a Colorado Limited Liability Company;
BLACK CANYON JET CENTER LLC, a Colorado Limited Liability Company;
WILLIAM PATTERSON;
KEVIN EGAN; and
JAMES RUMBLE,

Defendants.

ORDER DENYING JETAWAY'S MOTION FOR LEAVE TO FILE AMENDED
COMPLAINT

On November 17, 2008, the plaintiff, Jetaway Aviation, LLC, filed a motion for leave to file amended complaint, with attachments, including a proposed amended complaint and jury demand. The defendants filed oppositions with attachments to the filing by the Board of County Commissioners of the County of Montrose, Colorado, and Montrose County Building Authority. The plaintiff filed its reply on January 13, 2009, with additional attachments. The purpose of the proposed amendment is to add as defendants Allan Belt, and Gary Ellis, incumbent county commissioners, and Robert Hill, County Attorney, as alleged participants in what the plaintiff claims to be an ongoing conspiracy to restrain competition and to deprive the plaintiff of rights protected by federal statute. From the papers filed, it appears that there has been further litigation

between the plaintiff and the county in the district court in Montrose County, resulting in further injunctive relief in the form of a temporary restraining order, entered after a hearing held on November 14, 2008, which has effectively shut down Jetaway's operations since November 19, 2008, on which date the county commissioners revoked Jetaway's access at the airport. Additionally, the earlier judgment of the Montrose County District Court has been appealed to the Colorado Court of Appeals and Jetaway has challenged the jurisdiction of the district court to conduct the hearing on November 14, 2008, and enter the order. The parties have exchanged accusations of improper motivations in this litigation which cannot be considered in determining the subject motion. It does appear that the plaintiff seeks to make collateral attacks on the state court litigation by the allegations made here. What is clear is that granting the motion to add additional parties would be contrary to this Court's stay of these proceedings pending the FAA's determination in the second Part 16 complaint. It also appears that the plaintiff's efforts to include the county's actions in November, 2008, may be an interference with state court jurisdiction and the county's responsibility for the safety of the airport. Finding that the motion is contrary to the stay order and may be a premature effort to invalidate ongoing proceedings in the state court, it is

ORDERED that the motion for leave to amend complaint is denied.

DATED: January 15th, 2009

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge