

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Zita Leeson Weinshienk

Civil Action No. 09-cv-01476-ZLW-KMT

GERARD M. VUOLO,

Plaintiff,

v.

GARFIELD COUNTY SHERIFFS,
SHERIFF LOU VALLARIO,
GLENWOOD SPRINGS POLICE DEPARTMENT,
OFFICER LA ROCHA,
OWNERS (UNKNOWN) OF BUSINESS "SMOKERS FREINDLY", and
POLICE CHIEF TERRY WILSON,

Defendants.

ORDER

The matter before the Court is the Second Order To Show Cause (Doc. No. 51; Nov. 4, 2009). This Order, issued by Magistrate Judge Kathleen M. Tafoya, directed the Plaintiff to show cause why Defendant Owners (Unknown) of Business "Smokers Freindly" [sic] should not be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m) for lack of service and Local Rule 41.1 for failure to prosecute. After receiving Plaintiff's response to the show cause order, The Magistrate Judge issued a Recommendation (Doc. No. 57; Dec. 1, 2009) that the claims against Defendant Smoker Friendly should be dismissed. Plaintiff did not file an objection to the Recommendation.

The Court, after careful consideration, agrees with the Magistrate Judge's analysis and conclusion that Defendant Smoker Friendly should be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m) for lack of service. The Court accepts and adopts the Recommendation in its entirety. Accordingly, it is

ORDERED that the claims against Defendant Smoker Friendly be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m) for lack of service.

DATED at Denver, Colorado, this 20th day of January, 2010.

BY THE COURT:

A handwritten signature in blue ink that reads "Zita Leeson Weinsienk". The signature is written in a cursive style with a horizontal line underneath the name.

ZITA LEESON WEINSHIENK, Senior Judge
United States District Court