

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01733-MSK-CBS

PATRICK CONARRO,
Plaintiff,

v.

CLIFFORD PITCHER, and
KATHY CONARRO,
Defendants.

ORDER

Magistrate Judge Craig B. Shaffer

This civil action comes before the court on Plaintiff Mr. Conarro's "Notice" (filed November 12, 2009) (doc. # 22), wherein Mr. Conarro indicates that the November 23, 2009 Scheduling Conference "conflicts with a previously scheduled trip overseas that commences November 18, 2009 through December 22, 2009." Pursuant to the Order of Reference dated February 25, 2009 (doc. # 15) this civil action was referred to the Magistrate Judge to, *inter alia*, "[c]onvene a scheduling conference under Fed. R. Civ. P. 16(b)" and "enter a Scheduling Order meeting the requirements of D.C. COLO. LCivR 16.2." The court has reviewed the entire case file and the applicable law and is sufficiently advised in the premises.

I. Statement of the Case

Proceeding *pro se*, Mr. Conarro initiated this lawsuit on July 22, 2009, alleging three claims: (1) "Conspiracy to Induce Marriage in Furtherance of Paternity Fraud;" (2) "Fraudulent Inducement of Marriage;" and (3) "Violation of 442 U.S.C. § 1981 [sic]." (See Complaint (doc. # 1)). Mr. Conarro seeks monetary damages. (See doc. # 1 at pp. 7-8 of 10).

By an Order dated August 18, 2009, the court set a Scheduling Conference on

November 4, 2009 at 10:45 a.m. (See doc. # 8). Mr. Conarro's copy of the Order was not returned in the mail as undeliverable. Mr. Conarro submitted his proposed Scheduling Order on September 18, 2009. (See doc. # 15). The court held the Scheduling Conference on November 4, 2009. Mr. Conarro did not appear. A member of the court's staff contacted Mr. Conarro by telephone. Mr. Conarro indicated that he did not have the hearing set on his calendar.

With Mr. Conarro's consent, during the hearing held on November 4, 2009, the court reset the Scheduling Conference to November 23, 2009. (See Courtroom Minutes/Minute Order (doc. # 19)). Mr. Conarro specifically indicated that he would be in Colorado between November 20 and November 24, 2009. (See *id.*). Now Mr. Conarro seeks to reschedule the November 23, 2009 Scheduling Conference because it "conflicts with a previously scheduled trip overseas that commences November 18, 2009 through December 22, 2009." (See doc. # 22).

The court will reset the November 23, 2009 Scheduling Conference. However, Mr. Conarro is notified that for failure to comply with the court's orders, the Local Rules of Practice of the United States District Court for the District of Colorado, the Federal Rules of Civil Procedure, or failure to prosecute, this civil action may be dismissed with or without prejudice. See *Schafer v. City of Defiance Police Dept.*, 529 F.3d 731, 736 (6th Cir. 2008) ("Rule 41(b) of the Federal Rules of Civil Procedure confers on district courts the authority to dismiss an action for failure of a plaintiff to prosecute the claim or comply with the Rules or any order of the court."); Fed. R. Civ. P. 41(b) ("Unless the dismissal order states otherwise, a dismissal under this subdivision (b) . . . operates as an adjudication on the merits."); D.C. COLO. LCivR 41.1. ("A judicial officer may issue an order to show cause why a case should not be dismissed for lack of prosecution or for failure to comply with these rules, the Federal Rules of Civil Procedure, or any court order. If good cause is not shown within the time set in the show case order, a district judge . . . may enter an order

of dismissal with or without prejudice.”).

Accordingly, IT IS ORDERED that:

1. The Scheduling Conference set on November 23, 2009 at 1:00 p.m. is VACATED and **RESET to Monday January 4, 2010 at 11:15 a.m. Mr. Conarro is ordered to appear in person.**

2. The parties shall submit their updated proposed scheduling order on or before Monday December 28, 2009.

3. The parties shall comply with the mandatory disclosure requirements of FED.R.CIV.P. 26(a)(1) on or before Monday December 14, 2009.

4. The parties shall submit one copy of a brief (15 pages or less, including any attachments) Confidential Settlement Statement, either on paper and marked “Personal and Confidential,” by hand delivery to the Clerk’s Office or mailed directly to Magistrate Judge Shaffer at 901 19th Street, Denver, Colorado 80294, or in PDF format to Shaffer_Chambers@cod.uscourts.gov on or before December 28, 2009.

DATED at Denver, Colorado, this 16th day of November, 2009.

BY THE COURT:

s/Craig B. Shaffer
United States Magistrate Judge