

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02204-PAB-MJW

DAVID LENTON WARD,

Plaintiff(s),

v.

CRAIG HOYER, (KUBAT EQUIPMENT AND SERVICE COMPANY),

Defendant(s).

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby **ORDERED** that the Plaintiff's Motion for All Relief Requested in Plaintiff's Complaint as Filed in the Court September 4th, 2009 (**Docket No. 50**) is **denied**. First, plaintiff does not represent in his motion that he complied with his duty to confer with opposing counsel as required by D.C.COLO.LCivR 7.1(A). Plaintiff's e-mail to opposing counsel the evening before the motion was filed which merely advises her that he was going to file his motion the next day does not constitute compliance with the Local Rule. Furthermore, plaintiff's motion is groundless and frivolous. Pursuant to a Minute Order entered by this court on December 16, 2009 (Docket No. 37), defendant was given an extension up to and including December 22, 2009, in which to file a responsive pleading to the Plaintiff's Amended Complaint. (Docket No. 37). Defendant timely filed a Motion to Dismiss on December 22, 2009 (Docket No. 47).

ORDERED that the Plaintiff's Motion to Amend Complaint Pursuant to Fed.R.Civ.P. 15(C) (**Docket No. 52**) is **denied without prejudice**. Once again, plaintiff does not represent in his motion that he complied with his duty to confer with opposing counsel as required by D.C.COLO.LCivR 7.1(A). In addition, plaintiff has not tendered a proposed amended pleading to the court with his motion to amend. It is further

ORDERED that the Plaintiff's Motion for Default Judgment for All Relief Requested in Plaintiff's Complaint as Filed in the Court September 4th, 2009 (**Docket No. 53**), is **denied**. Yet again, plaintiff does not represent in his motion that he complied with his duty to confer with opposing counsel as required by D.C.COLO.LCivR 7.1(A). Furthermore, this motion is in essence a duplication of plaintiff's motion found at Docket No. 50, which was denied above. Also, prior to filing this motion, plaintiff did not seek to have a default entered. In addition, this motion is groundless and frivolous. As

noted above, pursuant to a Minute Order entered by this court on December 16, 2009 (Docket No. 37), defendant was given up to and including December 22, 2009, in which to file a responsive pleading to the Plaintiff's Amended Complaint. (Docket No. 37). Defendant timely filed a Motion to Dismiss on December 22, 2009 (Docket No. 47). It is further

ORDERED that the plaintiff shall comply with D.C.COLO.LCivR 7.1(A) prior to filing any motions other than those under Fed. R. Civ. P. 12 or 56. Failure to do so will result in the motion being stricken and not considered by the court. It is further

ORDERED that each party shall bear its own costs and fees with respect to the above motions. Plaintiff is advised, however, that if he continues to file motions without complying with D.C.COLO.LCivR 7.1(A), sanctions may very well be imposed, including an award to defendant of his attorney fees and costs in having to respond to the motion.

Date: January 22, 2010
