

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 10-cv-00644-PAB-MJW

SHANNON FREEMAN, Personal Representative of B.H., a child, and
STEPHANIE HANNA, as representative of the Estate of Robert Hanna, deceased,

Plaintiffs,

v.

GREGORY COSTA, PA-C,

Defendant.

ORDER

This matter comes before the Court on Defendant Gregory Costa, PA-C's Request for Limited Referral of Motion for Attorneys' Fees and Costs Pursuant to 28 U.S.C. § 1927 to Hon. John L. Kane [Docket No. 153]. The basis of the motion is that Judge Kane, having presided over this case until a mistrial was declared during the trial that started on October 29, 2012, would be most familiar with the issues involving defendant's request for attorneys' fees and costs [Docket No. 154]. Plaintiffs oppose this request.

The same day Judge Kane declared a mistrial, he issued an order recusing himself. His order states that his "objectively is compromised." Not only is there a presumption that the grounds for Judge Kane's recusal would similarly prevent him from deciding the attorneys' fee motion, but defendant does not identify any precedent for referral of a piece of a case, as opposed to an entire case, to another Article III judge, whether under the Local Rules or generally. Wherefore, it is

ORDERED that Defendant Gregory Costa, PA-C's Request for Limited Referral of Motion for Attorneys' Fees and Costs Pursuant to 28 U.S.C. § 1927 to Hon. John L. Kane [Docket No. 153] is denied.

DATED December 17, 2012.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge