

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 10-cv-01590-MSK-BNB

DAVID WALTER CLAY, JR.,

Plaintiff,

v.

REVADA FARNSWORTH, Medical Supervisor; and
SEVEN UNKNOWN NAMED BOULDER COUNTY JAIL MEDICAL STAFF,

Defendants.

ORDER

This matter arises on the defendants' **Motion to Amend Caption to Include the Board of County Commissioners of the County of Boulder as a Defendant/Counterclaimant** [Doc. # 34, filed 12/15/2010] (the "Motion"), which is DENIED without prejudice.

The Motion recites that "[p]ursuant to D.C.Colo.LCivR 7.1A, undersigned counsel states that he did not confer with Mr. Clay as compliance with this section is not necessary because this case involves a pro se prisoner." Motion [Doc. # 34] at ¶11. Defense counsel's understanding of Rule 7.1A is wrong. To the contrary, Rule 7.1A is unequivocal and expressly applies to cases involving pro se litigants:

The court will not consider any motion, other than a motion under Fed. R. Civ. P. 12 or 56, unless counsel for the moving party or a pro se party, before filing the motion, has conferred or made reasonable, good-faith efforts to confer with opposing counsel or a pro se party to resolve the disputed matter.

The failure to confer is fatal to the defendants' motion.

In addition, although the Motion purports merely to seek an amendment to the caption, it

appears in reality to seek to add or substitute a party.

IT IS ORDERED that the Motion [Doc. # 34] is DENIED without prejudice, subject to renewal consistent with this order.

Dated December 17, 2010.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge