

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;
SEVEN UNKNOWN NAMED BOULDER COUNTY JAIL MEDICAL STAFF, and
BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF BOULDER,

Defendants.

ORDER

This matter arises on the plaintiff's **Motion for Clarification (Ex Parte)** [Doc. #64, filed 04/04/2011] (the "Motion"). The Motion is DENIED.

The plaintiff seeks clarification of an order which cites D.C.COLO.LCivR 29.1 on the basis that "there does not appear to be a Rule 29.1." On December 21, 2010, I issued a Minute Order [Doc. #38] setting a Scheduling Conference and stating that "[t]he parties need not comply with the requirements of Fed.R.Civ.P. 16 and D.C. COLO. LR 16.2 and 29.1." Rule 29.1 has been abrogated. However, the plaintiff's request for clarification is unnecessary because he was clearly told that he need not comply with the rule.

The plaintiff filed his Motion "Ex Parte." The local rules of this Court prohibit ex parte communication with judicial officers:

In the absence of previous authorization, no attorney or party to any proceeding shall send letters, pleadings or other papers or copies directly to a judicial officer. Unless otherwise instructed, all matters to be called to a judicial officer's attention shall be

submitted through the clerk, with copies served on all other parties or their attorneys.

D.C.COLO.LCivR 77.2.

The plaintiff does not certify that he served a copy of the Motion on counsel for the defendants. Copies of papers filed in this court must be served on counsel for all other parties (or directly on any party acting *pro se*) in compliance with Fed. R. Civ. P. 5. Rule 5 provides that all pleadings filed after the original complaint and all written motions, notices, demands, or any similar paper must be served on every party. Fed. R. Civ. P. 5(a). “If a party is represented by an attorney, service under this rule must be made on the attorney” Fed. R. Civ. P. 5(b). Service upon other parties may be by mail. Id. Proof that service has been made is provided by a certificate of service. Id. at 5(d). This certificate should be filed along with the original papers and should show the day and manner of service. Id.

IT IS ORDERED:

- (1) The Motion is DENIED;
- (2) All papers shall be served on counsel for the defendants in accordance with Rule 5 and shall be accompanied by a proper Certificate of Service; and
- (3) Failure to comply with this order may result in sanctions, including dismissal of this case.

Dated April 25, 2011.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge