

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-02862-REB-KLM

DEAN CARBAJAL,

Plaintiff,

v.

MYRL SERRA, in his individual capacity,
SHERRI PRICE, in her individual capacity,
CAROL WARNER, in her individual capacity,
DAVID ROMERO, in his individual capacity,
JOE QUINTANA, in his individual capacity,
BILL RAILEY, in his individual capacity,
CHRIS WELDON, in his individual capacity,
BEA WOLFE, in his individual capacity,
BENJAMIN SCHROEDER, in his individual capacity,
GILBERTO LUCIO, in his individual capacity,
JAMES DIXON, in his individual capacity,
ADAM BARRETT, in his individual capacity,
JOEL SMITH, in his individual capacity,
JESSE REMBERT, in his individual capacity,
JAY LOPEZ, in his individual capacity,
MICHAEL O'NEILL, in his individual capacity,
BOARD OF COUNTY COMMISSIONER OF DELTA COUNTY, a political subdivision of
the State of Colorado,
CITY AND COUNTY OF DENVER, a political subdivision of the State of Colorado,
DARIN DESEL, Police Officer for the Denver Police Department, in his individual
capacity,
FRED MCKEE, Sheriff for the Delta Sheriff's Department, in his individual capacity,
PERRY SPEELMAN, Police Officer for the Denver Police Department, in his individual
capacity, and
UNKNOWN REPRESENTATIVE, Representative of Patricia Kramer's Estate, former
Deputy District Attorney for the Seventh Judicial District, in her individual capacity,

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiff's **Motion to Strike Defendants' Replies (DOCs # 327, 328, 329, & 330)** [Docket No. 331; Filed May 10, 2012]. In the Motion, Plaintiff seeks to strike Defendants' four Replies to the pending Motions to Dismiss on the ground that Defendants' attorney failed to mail him copies of the documents pursuant to the requirements of Fed. R. Civ. P. 5.

Each of the four Replies contains a Certificate of Service certifying that a hard copy was sent to Plaintiff, at two separate addresses, "via U.S. mail, postage prepaid" on April 19, 2012. See [#327] at 8; [#328] at 8; [#329] at 10; [#330] at 7. Other than unsubstantiated assertions, Plaintiff has provided no evidence to the contrary. Further, Plaintiff clearly has a copy of each of these Replies, because he was able to refer to them by docket entry number in the Motion. Finally, Plaintiff's assertion that Defendants are attempting to deny him the opportunity to file surreplies is irrelevant, because surreplies are not contemplated by the Federal Rules of Civil Procedure or the Local Rules of Practice, and the Court is adequately advised of the issues on the parties' present briefings. Accordingly,

IT IS HEREBY **ORDERED** that the Motion [#331] is **DENIED**.

IT IS FURTHER **ORDERED** that the filing of "surreplies" to the pending Motions to Dismiss is not permitted. Any such "surreplies" shall be summarily stricken.

Dated: May 11, 2012