

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Raymond P. Moore**

Civil Case No. 11-cv-01899-RM-KLM

GERALD LEE PATTERSON,

Plaintiff,

v.

GEORGE SANTINI, M.D.,
CAMACHO, P.A., and
FIVE JOHN/JANE DOES,

Defendants.

ORDER

This matter is before the Court on the Order and Judgment (ECF No. 129) entered by the Tenth Circuit on November 12, 2015, the Tenth Circuit's Mandate (ECF No. 131) issued January 4, 2016, and Plaintiff's Motion to Recuse Magistrate Mix (ECF No. 128) filed on November 23, 2015. Plaintiff also filed a second motion to recuse Magistrate Judge Mix on December 15, 2015 (ECF No. 130) that includes identical arguments as his previous motion, and also seeks to have the Court reopen this case and further asks that the Court compel Assistant U.S. Attorney Mark Pestal to respond to Plaintiff's settlement offer.

Regarding Plaintiff's two motions to recuse, Plaintiff claims that Magistrate Judge Mix was "advocating for Defendants in this case" and purports to quote statements made by the magistrate judge encouraging Plaintiff to accept his settlement offer. (ECF No. 128 at 1; ECF No. 130 at 1.) However, Plaintiff's argument is based solely on his own unsworn statement

contained in his motion and is not supported by any evidence, such as a sworn affidavit. Because Plaintiff has not presented any evidence upon which to base an order of recusal, these motions must be denied.

Regarding Plaintiff's motion seeking that this Court compel Assistant U.S. Attorney Mark Pestal to respond to Plaintiff's settlement offer, Plaintiff has offered no factual or legal basis whatsoever upon which this Court could grant such relief.

Based on the foregoing, it is hereby ORDERED that:

1. Plaintiff's Motion to Recuse Magistrate Mix (ECF No. 128) is DENIED without prejudice.

2. Plaintiff's Motion to Reopen Case As Tenth Circuit Ordered And Recuse Magistrate Mix (ECF No. 130) is GRANTED in part and DENIED in part, to wit,

a. Plaintiff's motion is GRANTED to the extent it seeks to reopen this case; based on the Tenth Circuit's November 12, 2015 Order and Judgment, it is ORDERED this case be REOPENED to allow the parties to litigate the merits of Plaintiff's claims,

b. Plaintiff's motion is DENIED without prejudice to the extent it seeks to have Magistrate Judge Mix recused, and

c. Plaintiff's motion is DENIED without prejudice to the extent it seeks to have this Court compel Assistant U.S. Attorney Mark Pestal respond to Plaintiff's settlement offer.

It is FURTHER ORDERED that, Pursuant to 28 U.S.C. § 636(b)(1)(A) and (B) and Fed. R. Civ. P. 72(a) and (b), this case is referred to the assigned United States Magistrate Judge to (1) convene a scheduling conference under Fed. R. Civ. P. 16(b) and enter a scheduling order meeting the requirements of D.C.COLO.LCivR 16.2, (2) conduct such status conferences and

issue such orders necessary for compliance with the scheduling order, including amendments or modifications of the scheduling order upon a showing of good cause, (3) hear and determine pretrial matters, including discovery and other non-dispositive motions, (4) conduct a pretrial conference and enter a pretrial order, and (5) conduct hearings, including evidentiary hearings, and submit proposed findings of fact and recommendations for rulings on dispositive motions.

DATED this 5th day of January, 2016.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Raymond P. Moore", written over a horizontal line.

RAYMOND P. MOORE
United States District Judge