

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 12-cv-00708-REB-MEH

ANTHONY D. LOCKE, an individual,

Plaintiff,

v.

FEDEX FREIGHT, INC.,
CARL PETERMAN,
JEFF W. STAMM,
BILL LOFTUS,
BOB MORELAND,
TONY TALIERCIO, and
JON S. JONES,

Defendants.

**ORDER ADOPTING RECOMMENDATIONS OF
UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

This matter is before me on the following: (1) the **Claimant's Request for Leave To Serve/Re-Serve Defendant(s) Peterman, Stamm, Loftus, Moreland, Taliercio, and Jones** [#66] filed April 25, 2013; (2) the **Recommendation of United States Magistrate Judge** [#77]¹ filed June 11, 2013; and (3) the **Amended Recommendation of United States Magistrate Judge** [#87] filed August 1, 2013. I approve and adopt both recommendations, deny the plaintiff's motion in part, and grant it in part.

The plaintiff is proceeding *pro se*. Thus, I have construed his pleadings and other filings more liberally and held them to a less stringent standard than formal pleadings

¹ “[#53]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

drafted by lawyers. **See *Erickson v. Pardus***, 551 U.S. 89, 94 (2007); ***Andrews v. Heaton***, 483 F.3d 1070, 1076 (10th Cir. 2007); ***Hall v. Bellmon***, 935 F.2d 1106, 1110 (10th Cir. 1991).

The defendant filed timely objections [#80] to the June 11, 2013, recommendation [#77], but later withdrew those objections. See [#89]. The plaintiff did not file timely objections to the June 11, 2013, recommendation. The plaintiff filed timely objections [#92] to the August 1, 2013, recommendation [#87], and defendant FedEx Freight, Inc. filed a response [#98] to those objections. In his objections [#92], the plaintiff addresses also the June 11, 2013, recommendation. I disregard the plaintiff's objections to the June 11, 2013, recommendation because those objections are not timely.

Because there are no timely objections to the June 11, 2013, recommendation, I review it only for plain error. **See *Morales-Fernandez v. Immigration & Naturalization Service***, 418 F.3d 1116, 1122 (10th Cir. 2005).² As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the August 1, 2013, recommendation to which the plaintiff objects. I have considered carefully the recommendation, the objections, and the applicable case law.

Both of the recommendations concern the failure of the plaintiff to timely serve several of the defendants. I agree with the conclusion of the magistrate judge that the plaintiff has not demonstrated cause for mandatory or permissive extension of the deadline for service of process on defendants, Taliercio, Peterman, Stamm, Loftus, and Moreland, and I agree that the claims against these defendants must be dismissed

² This standard pertains even though plaintiff is proceeding *pro se* in this matter. ***Morales-Fernandez***, 418 F.3d at 1122.

without prejudice under FED. R. CIV. P. 4(m). Further, I agree with the conclusion of the magistrate judge that the plaintiff should be granted a brief extension of time to obtain contact information for defendant, Jon Jones, and to provide that information to the clerk of the court to facilitate service of process on Mr. Jones.

THEREFORE, IT IS ORDERED as follows:

1. That the **Recommendation of United States Magistrate Judge** [#77] filed June 11, 2013, is **APPROVED** and **ADOPTED** as an order of this court, except to the extent this recommendation is modified in the recommendation [#87] issued August 1, 2013;

2. That the **Amended Recommendation of United States Magistrate Judge** [#87] filed August 1, 2013, is **APPROVED** and **ADOPTED** as an order of this court;

3. That the **Claimant's Request for Leave To Serve/Re-Serve Defendant(s) Peterman, Stamm, Loftus, Moreland, Taliercio, and Jones** [#66] filed April 25, 2013, is **GRANTED** in part and **DENIED** in part, as stated in this order;

4. That under FED. R. CIV. P. 4(m), the plaintiff's claims against defendants, Tony Taliercio, Carl Peterman, Jeff W. Stamm, Bill Loftus, and Bob Moreland, are **DISMISSED** without prejudice;

5. That defendants, Tony Taliercio, Carl Peterman, Jeff W. Stamm, Bill Loftus, and Bob Moreland, are **DROPPED** as named defendants in this case, and the caption shall be **AMENDED** accordingly;

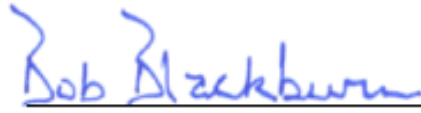
6. That by November 15, 2013, defendant, FedEx Freight, Inc., **SHALL PROVIDE** to plaintiff, in writing, the most current address known to FedEx Freight, Inc. for defendant, Jon S. Jones; and

7. That by November 25, 2013, the plaintiff **SHALL PROVIDE** to the clerk of this

court contact information for defendant, Jon S. Jones, to permit the clerk to arrange for service of the amended complaint [#42] on defendant, Jon S. Jones;

Dated November 4, 2013, at Denver, Colorado.

BY THE COURT:

A handwritten signature in blue ink that reads "Bob Blackburn". The signature is written in a cursive style with a horizontal line underneath the name.

Robert E. Blackburn
United States District Judge