

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-01376-PAB-KLM

FREDDIE K. MARTIN,

Plaintiff,

v.

CITY AND COUNTY OF DENVER,  
DENNIS J. GALLAGHER, Office of the Auditor, in his Official Capacity,  
AUDIT SERVICES OF AUDITOR'S OFFICE, and  
CAREER SERVICE AUTHORITY,

Defendants.

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**MINUTE ORDER**

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**ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX**

This matter is before the Court on Plaintiff's **Motion to Strike Defendants' Response to Plaintiff's Motion for Leave to File Second Amended [Complaint] for Untimely Filing** [Docket No. 41; Filed January 11, 2013] (the "Motion"). Plaintiff avers that Defendants' Response [#40] to his Motion for Leave to File Second Amended Complaint [#35] (the "Motion to Amend") was filed three days late and therefore should be stricken.

The Court first notes that Plaintiff's reliance on Fed. R. Civ. P. 12(f) is misplaced, as that provision only permits the Court to "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Nothing in that rule allows the Court to strike a late-filed responsive pleading. Accordingly, Plaintiff should have followed the conferral requirements of Local Rule 7.1A. before filing the present Motion.

Regardless, the Court finds that Defendants' Response [#40] was timely filed. As explained in Defendants' Response [#43] to the Motion, Plaintiff, who proceeds in this matter as a *pro se* litigant, placed the Motion to Amend in the mail on December 12, 2012. *Motion to Amend* [#35] at 2. Because three days are added to the response period to allow for transit time when using non-electronic delivery methods, see Fed. R. Civ. P. 6(d), Defendants' 21-day response period began on December 15, 2012. That period ended on January 5, 2013, a Saturday, so the period was extended to the next business day, January 7, 2013. See Fed. R. Civ. P. 6(a)(1)(C). Defendants therefore timely filed their Response [#40] on January 7, 2013. Accordingly,

IT IS HEREBY **ORDERED** that the Motion [#41] is **DENIED**.

Dated: February 5, 2013