

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

Civil Action No. 12-cv-02257-REB-KLM

DEAN CARBAJAL,

Plaintiff,

v.

MICHAEL O'NEILL, Police Officer for the Denver Police Department, in his individual capacity,
JAY LOPEZ, Police Officer for the Denver Police Department, in his individual capacity,
LARRY BLACK, Police Officer for the Denver Police Department, in his individual capacity,

Defendants.

ORDER FOR SUPPLEMENTAL BRIEFING

Blackburn, J.

This matter is before me *sua sponte*. This matter was tried to a jury August 10-18, 2015. Following the jury's verdict in favor of defendants on all claims asserted against them, I found preliminarily that this lawsuit appeared to be one of the rare instances in which attorney fees might be awarded in favor of a defendant under 42 U.S.C. § 1988(b), and invited defendants to file a motion seeking such fees. (**See Courtroom Minutes** at 3 [#383], filed August 18, 2015.)

Defendants subsequently filed on September 1, 2015, their motion for attorney fees [#391]. However, they appear to have treated the court's preliminary and provisional suggestion of frivolousness as having determined that issue conclusively. In making its own observations, however, the court had no intention of absolving defendants of the obligation to substantiate their request for attorney fees by

demonstrating with particularity that the circumstances of this case merit such an award. For that, the present motion is inadequate. Thus, I direct defendants to submit a supplemental brief addressing this critical aspect of the *sine qua non* for an award of attorney fees.

THEREFORE, IT IS ORDERED as follows:

1. That defendants shall submit a supplemental brief of no more than fifteen (15) pages substantiating their suggestion that this lawsuit was frivolous or otherwise merits an award of attorney fees under the standards of 42 U.S.C. § 1988 on or before September 30, 2015; and

2. That the deadline for plaintiff to respond to the motion, as supplemented, shall run from the date of the filing of the supplemental brief.

Dated September 10, 2015, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge