

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action Number: 12-cv-02682-JLK

JAMAL HUNTER,

Plaintiff,

v.

THE CITY AND COUNTY OF DENVER, et al.,

Defendants.

ORDER ON PLAINTIFF'S MOTION TO WITHDRAW
MOTION FOR ADDITIONAL SANCTIONS (Doc. 177)

Kane, J.

Plaintiff requests leave to withdraw without prejudice his June 26, 2014 Motion for Additional Sanctions (Doc. 150). The Motion is GRANTED, but I feel obligated to dispel any misconceptions about the effects of the Motion or this Order because it is conceivable that I will reinstate it (or the allegations contained therein) on my own, *sua sponte*.

The Complaint, and the Amended Complaint, call for injunctive relief. The Amended Complaint is plead with specificity and contains a number of allegations including those describing systemic illegal conduct in the Denver Sheriff's Department. The Motion now being withdrawn contains serious allegations of misconduct on the part of Denver in responding to discovery requests and in making false and/or misleading statements to the court. Rule 37 of the Federal Rules of Civil Procedure includes descriptions of possible sanctions a court may impose if such allegations are sustained.

These sanctions include contempt of court and possible monetary penalties.

Perhaps of greater significance at this stage of the proceedings is that Canon 3B(5) of the Code of Conduct for Judges provides that “[a] judge should take appropriate action upon learning of reliable evidence indicating the likelihood that a . . . lawyer violated applicable rules of professional conduct.” The Commentary to Canon 3B(5) provides that “[a]ppropriate action may include direct communication with the . . . lawyer, other direct action if available, reporting the conduct to the appropriate authorities”

I am in no position at this point to state whether the allegations in the Plaintiff’s Motion, now withdrawn, for additional sanctions will be sustained. Such a determination depends on a hearing. There are, however, a number of documents appended to the motion for sanctions that clearly show probable cause to proceed. I cannot ignore the command of Canon 3B(5) nor can I ignore the prayer in the Amended Complaint for equitable relief. These are not matters that can be settled by agreement of the parties and must await a more fully detailed presentation to the court.

To state the matter succinctly, the Plaintiff can withdraw the Motion, without prejudice to refile, but I may, should circumstances unknown to me at this time require, reinstate the Motion as well as the issues implicit in the request for injunctive relief and submit them to further enquiry and possible disposition.

Dated: July 22, 2014.

John L. Kane
SENIOR U.S. DISTRICT JUDGE