

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No 13-cv-01726-RBJ-BNB

RUBEN ARAGON,

Plaintiff,

v.

HILLEL ERLANGER,
MITCHELL BUTTERFIELD, and
RHONDA FUNSTON,

Defendants.

ORDER

This matter arises on the following:

(1) Defendant Erlanger's **Motion to Require Plaintiff to Properly Communicate and for Directions as to Proper Mailing of Defendant's Court Filings** [Doc. #72, filed 09/05/2014];

(2) **Defendant Hillel Erlanger's Request for Production of Documents to Plaintiff Ruben Aragon** [Doc. #74, filed 09/08/2014];

(3) **Defendant Hillel Erlanger's Request for Admissions to Plaintiff Ruben Aragon** [Doc. #75, filed 09/08/2014]; and

(4) **Defendant Hillel Erlanger's Request for Interrogatories to Plaintiff Ruben Aragon** [Doc. #76, filed 09/08/2014].

The plaintiff currently is incarcerated by the Colorado Department of Corrections. Defendant Erlanger has served the plaintiff with court filings at the plaintiff's address of record

at the Arkansas Valley Correctional Facility. In a letter to defendant Erlanger's counsel dated September 3, 2014, the plaintiff stated:

I am not allowed to receive your mail as you seem to not wish to comply with the institutional rules or regulations for sending privileged mail. AR 300-38, Offender Mail. I've already notified you of this problem with the mail room Sgt Ruffini. I would expect some professional [sic] conduct from your firm. Notice will be given to the court.

* * *

If this is a gimmick [sic] to buy more time to answer the discovery requests, I'm pretty sure if you request an extension, they'll be freely granted.

Motion to Require Plaintiff to Properly Communicate and for Directions as to Proper Mailing of Defendant's Court Filings, First Attachment.

The plaintiff attached to the letter a "Notice of Rejection/Disposition of Mail" from the prison. The notice states that the plaintiff received mail from an attorney that was not marked as privileged or confidential. The Notice further states that the plaintiff could "elect to have it returned to sender or have it be treated as non-restricted mail and delivered" to him. Id.

Apparently, the plaintiff believes that the defendants are required to label their mail to him as privileged or confidential. However, the defendants' court filings are a matter of public record; they are not privileged or confidential. The defendants' mail should be treated as non-restricted mail. In addition, I will not tolerate the plaintiff's immaterial and impertinent statements and *ad hominem* attacks against defendant Erlanger's counsel.

Finally, defendant Erlanger has filed with the court several requests for discovery. Those requests should be served on the parties. Discovery materials shall not be filed with the court. Fed.R.Civ.P. 5(d).

IT IS ORDERED:

(1) The Motion to Require Plaintiff to Properly Communicate and for Directions as to Proper Mailing of Defendant's Court Filings [Doc. #72] is GRANTED;

(2) The plaintiff shall accept the defendants' correspondence as non-restricted mail;

(3) The plaintiff shall cease making immaterial and impertinent statements and *ad hominem* attacks against the defendants' counsel; and

(4) Defendant Hillel Erlanger's Request for Production of Documents to Plaintiff Ruben Aragon [Doc. #74]; Defendant Hillel Erlanger's Request for Admissions to Plaintiff Ruben Aragon [Doc. #75]; and Defendant Hillel Erlanger's Request for Interrogatories to Plaintiff Ruben Aragon [Doc. #76] are STRICKEN.

Dated September 16, 2014.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge