

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-cv-00774-NYW

DENNIS WATSON,

Plaintiff,

v.

UPS GROUND FREIGHT, INC.,  
ROBERT MANGIONE,  
JOHN GONZALES,  
KENNETH THOMAS,

Defendants.

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**MINUTE ORDER**

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Entered By Magistrate Judge Nina Y. Wang

This civil action is before the court pursuant to Defendants' Motion to Dismiss Individual Defendants and Amend Case Caption ("Motion to Dismiss"). [#55, filed December 29, 2015]. This court has authority pursuant to 28 U.S.C. § 636(c)(1) and the Order of Reference Upon Consent to Jurisdiction of Magistrate Judge [#27].

On November 19, 2015, Plaintiff filed a Motion for Leave to Amend Complaint. [#44]. By Order dated November 27, 2015, this court granted that motion and accepted the Second Amended Complaint as the operative pleading. [#48]. The Second Amended Complaint clarifies that Plaintiff intends to "drop[] all other named defendants except for UPS Ground Freight, Inc.," and asserts four claims as to Defendant UPS Ground Freight, Inc., only. *See* [#45 at ¶ 2]. However, the caption of the Second Amended Complaint names Robert Mangione, Kenneth Thomas, and John Gonzales as Defendants. [*Id.*]

Defendants ask in the Motion to Dismiss that the individuals named in the caption be dismissed with prejudice and that the caption be amended accordingly. [#55]. Counsel for Defendants represent pursuant to D.C.COLO.LCivR 7.1 that despite five attempts to confer with Plaintiff's counsel regarding his client's position on the Motion to Dismiss, Plaintiff's counsel

has provided no response.<sup>1</sup> [*Id.* at 2]. In addition, Plaintiff's deadline by which to respond to the Motion to Dismiss has passed.

A review of the Amended Complaint [#45] indicates that UPS Ground Freight, Inc. is the only remaining named Defendant. [#45 at ¶¶ 2-8]. Therefore, despite the fact that their names remain as part of the caption, Robert Mangione, Kenneth Thomas, and John Gonzales are no longer Defendants in this action. The docket does not appear to reflect any agreement of the Parties to dismiss Robert Mangione, Kenneth Thomas, and John Gonzales with prejudice, and accordingly, this court declines to do so at this time.

Therefore, **IT IS ORDERED** that:

- (1) Defendants' Motion to Dismiss Individual Defendants and Amend Case Caption [#55] is **GRANTED IN PART and DENIED IN PART**; and
- (2) The Clerk of the Court is directed to amend the case caption to remove Robert Mangione, Kenneth Thomas, and John Gonzales as Defendants, leaving only UPS Ground Freight, Inc. as a Defendant in this action.

DATED: January 13, 2016

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<sup>1</sup> The court reminds Plaintiff's counsel that they must engage in a meaningful meet and confer pursuant to D.C.COLO.LCivR 7.1(a), and the failure to do so may lead to sanctions.