

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:14-cv-00238-MOC-DSC

<b>DOUGLAS R. SMITH, et al.,</b>	)	
	)	
Plaintiffs,	)	
	)	
Vs.	)	ORDER
	)	
<b>AVERY CHAPMAN, et al.,</b>	)	
	)	
Defendants.	)	

**THIS MATTER** is before the court on the following motions: (1) Defendant Taryn Hartnett’s Motion for Summary Judgment (#89); (2) Defendant Taryn Hartnett’s Motion for Summary Judgment on Counterclaims (#91); (3) Defendants Chapman Legal Group’s and Avery Chapman’s Motion for Summary Judgment (#93); (4) Defendants Chapman Legal Group’s and Avery Chapman’s Motion for Summary Judgment on Counterclaims (#95); (5) Defendants Chapman Legal Group’s, Avery Chapman’s, and Taryn Hartnett’s Motion to Strike (#122); and (6) Magistrate Judge Cayer’s Memorandum and Recommendation and Certification of Facts (#128) and the underlying Motion for Sanctions and Contempt of Douglas Smith (#83). The court scheduled a hearing for oral arguments on these matters, as well as an evidentiary hearing regarding the Motion for Sanctions and Contempt. See (#138). The court held a hearing on July 15, 2015. At that hearing, after discussions with the court about the status of this case, Defendants made an oral motion to withdraw all motions for summary judgment except its motion for summary judgment on Plaintiff’s claims against Defendant Taryn Hartnett made pursuant to the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. §

1962, (Counts I, III-IV of Plaintiffs' Complaint (#1)), which are contained in (#89). As stated at the hearing, the court will grant Defendants' Motions to Withdraw such motions for summary judgment without prejudice, and will issue a forthcoming memorandum of decision and Order on Defendant Hartnett's Motion for Summary Judgment on the RICO claims. Additionally, for the reasons discussed at the hearing, the court will enter the following Order regarding the other pending motions.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that Defendants' Oral Motions (made at the July 15, 2015 hearing) to Withdraw the following Motions for Summary Judgment:

1. Defendant Taryn Hartnett's Motion for Summary Judgment as to Counts II, V-XII (#89);
2. Defendant Taryn Hartnett's Motion for Summary Judgment on Counterclaims (#91);
3. Defendants Chapman Legal Group's and Avery Chapman's Motion for Summary Judgment (#93); and
4. Defendants Chapman Legal Group's and Avery Chapman's Motion for Summary Judgment on Counterclaims (#95);

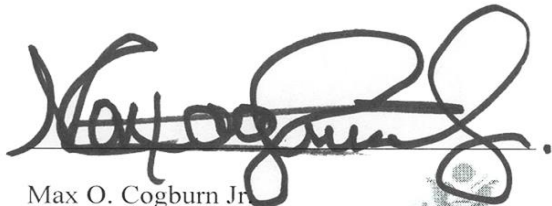
are **GRANTED without prejudice**.

**The Clerk of Court is instructed to note** that the court will rule on Defendants' Motion for Summary Judgment as to the RICO claims (Counts I, III-IV of Plaintiffs' Complaint (#1)) asserted against Defendant Taryn Hartnett (contained within (#89)) by separate Order.

**IT IS FURTHER ORDERED** that Defendants' Motion to Strike Improper Affidavit of Plaintiff Douglas R. Smith (#122) is **DEFERRED** for consideration at this time. The court will revisit this matter after the resumed deposition of Plaintiff Doug Smith, currently scheduled to take place August 24, 2015.

**IT IS FURTHER ORDERED** that Defendants' Motion for Sanctions and Contempt of Douglas Smith (#83) and Judge Cayer's Memorandum and Recommendation and Certification of Facts (#128) are **DEFERRED** for consideration until the conclusion of this case.

Signed: August 26, 2015



Max O. Cogburn Jr.  
United States District Judge