

No. _____

In The
SUPREME COURT OF THE UNITED STATES

FRANK SALAZAR,

Petitioner,

v.

ANTHONY ANDERSON; KEVIN KIHN;
GOLDEN AUTOMOTIVE GROUP TRADE NAME
PLANET HONDA; LEO PAYNE;
BLACK HILLS FEDERAL CREDIT UNION;
DEEANN DIETRICH; KITTY GUST,
Respondents.

*On Petition for a Writ of Certiorari to the
Colorado Court of Appeals*

APPENDIX TO THE
PETITION FOR A WRIT OF CERTIORARI

Frank Salazar
810 N. Main Street, #122
Spearfish, SD 57783
(720) 394-6545
frank5292787@gmail.com

Petitioner *pro se*

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19CA0889 Salazar v Anderson 09-24-2020

COLORADO COURT OF APPEALS

DATE FILED: September 24, 2020

Court of Appeals No. 19CA0889
Adams County District Court No. 18CV124
Honorable Robert W. Kiesnowski, Jr., Judge

Frank Salazar,

Plaintiff-Appellant,

v.

Anthony Anderson, Kevin Kihn, Golden Automotive Group, LLC, d/b/a Planet
Honda, Leo Payne, Black Hills Federal Credit Union, DeAnne Dietrich, and
Kitty Gust,

Defendants-Appellees.

JUDGMENTS AND ORDER AFFIRMED
AND APPEAL DISMISSED IN PART

Division IV
Opinion by JUDGE JOHNSON
Terry and Richman, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)
Announced September 24, 2020

Frank Salazar, Pro Se

Philip J. Weiser, Attorney General, Patrick Sayas, Senior Assistant Attorney
General, Jessica E. Ross, Assistant Attorney General, John A. Schoppert,
Assistant Attorney General Fellow, Denver, Colorado, for Defendants-Appellees
Anthony Anderson and Kevin Kihn

Timothy J. Lamb, P.C., Timothy J. Lamb, Littleton, Colorado, for Defendants-
Appellees Golden Automotive Group, LLC, and Leo Payne

¶ 1 This is the third appeal by plaintiff Frank Salazar (Salazar) involving the same mix-up over his automobile's vehicle identification number (VIN) as addressed in his two prior appeals.

¶ 2 In this latest iteration, Salazar challenges the district court's (1) dismissal of Black Hills Federal Credit Union (Black Hills), Kitty Gust, and DeAnne Dietrich (collectively, credit union defendants); (2) dismissal of Golden Automotive Group, LLC, d/b/a Planet Honda (Planet Honda) and Leo Payne (collectively, dealership defendants); (3) dismissal of Anthony Anderson and Kevin Kihn, Colorado Department of Motor Vehicle (DMV) employees (collectively, state defendants); and (4) order denying Salazar's voluntary notice of dismissal of credit union defendants. The dismissals all included a finding that Salazar's claims lacked substantial justification under section 13-17-102(4), C.R.S. 2019. We affirm but dismiss Salazar's appeal concerning the district court's finding that his lawsuit lacked substantial justification, as the district court has yet to award attorney fees and thus there is no final appealable order.

I. Background

A. The Incorrect VIN and Prior Two Appeals

¶ 3 Salazar purchased a Honda CR-V vehicle (the vehicle) in 2012 from Planet Honda in Colorado. At that time, Salazar also obtained an automobile loan from his South Dakota-based credit union, Black Hills. Both Salazar and his wife were listed as borrowers on the automobile loan.

¶ 4 At the time of the vehicle's sale, Planet Honda inadvertently mixed up the VIN of Salazar's vehicle with another Honda CR-V sold to a different customer. This error led Planet Honda to send incorrect VIN information to Black Hills and the DMV, preventing Salazar from perfecting title and registering the vehicle in Colorado. Salazar did not learn of the title mix-up until several months later, on July 6, 2013.

¶ 5 Correcting this issue involved some paperwork to essentially "recreate" the transaction: creating a duplicate manufacturer's statement of origin for both of the vehicles, signing a security agreement, and submitting documents to the DMV.

¶ 6 The owner of the other vehicle completed this process. Salazar and his wife did not, despite repeated advice and clear instructions

from the DMV and Planet Honda. Instead, Salazar repeatedly contacted DMV employees, demanding that title be issued to him even though he had never completed a legally sufficient application.

¶ 7 In 2014, Salazar's wife declared bankruptcy. Salazar did not affirm the debt for the automobile loan during his wife's bankruptcy proceedings. This bore additional proceedings which, while not on review here, resulted in an award of \$3033.82 in attorney fees and costs to Black Hills, reduced to a judgment lien on the vehicle. When Salazar later paid off the automobile loan balance in 2017, he refused to satisfy the judgment lien.

¶ 8 Salazar eventually brought two prior lawsuits over the VIN issue naming some of the same parties included in his third lawsuit. The district courts dismissed Salazar's first and second lawsuits and both dismissals were affirmed on appeal. *See Salazar v. Anderson*, (Colo. App. No. 17CA0882, Nov. 8, 2018) (not published pursuant to C.A.R. 35(e)) (*Salazar I*); *Salazar v. Anderson*, (Colo. App. No. 17CA1319, Sept. 27, 2018) (not published pursuant to C.A.R. 35(e)) (*Salazar II*).

B. The Current Lawsuit

¶ 9 In May 2017, Salazar allegedly met with state defendants, who informed him that a new certificate of title could not be issued for the vehicle until he paid back taxes, fees, and the attorney fee lien owed to Black Hills. About a year and a half later, in December 2018, Salazar filed the underlying action.

¶ 10 In his third lawsuit, Salazar brought four claims for relief: (1) quiet title under C.R.C.P. 57 against all defendants; (2) unreasonable seizure, violation of procedural and substantive due process, and violation of equal protection under 42 U.S.C. § 1983 (2018) against all defendants; (3) civil theft and rights in stolen property under section 18-4-401, C.R.S. 2109, and section 18-4-405, C.R.S. 2019, against credit union and dealership defendants; and (4) fraud against credit union and dealership defendants.

¶ 11 In separate orders, the district court dismissed credit union, dealership, and state defendants for failure to state a claim under C.R.C.P. 12(b)(5). Individual credit union defendants Gust and Dietrich were also dismissed for lack of personal jurisdiction under Rule 12(b)(2). The district court found all of Salazar's claims lacked substantial justification and it imposed an award of reasonable

attorney fees and costs under section 13-17-102. At the time this appeal was filed, the district court had not issued a final award of attorney fees and costs.

¶ 12 Eighteen days *after* the district court issued its order dismissing credit union defendants, Salazar filed a notice of voluntary dismissal concerning those defendants without prejudice. In response, the district court denied the notice.

¶ 13 We first address Salazar's claims against non-state defendants, and then claims against all defendants.

II. Claims Against Non-State Defendants

A. Personal Jurisdiction

¶ 14 Credit union defendants moved for dismissal on grounds of lack of personal jurisdiction under C.R.C.P. 12(b)(2), improper service under C.R.C.P. 12(b)(4), and failure to state a claim under C.R.C.P. 12(b)(5). In support of their Rule 12(b)(2) motion, those defendants filed affidavits attesting to their South Dakota residence and their lack of minimum contacts with Colorado.

¶ 15 The district court dismissed Gust and Dietrich on Rule 12(b)(2) grounds.¹ It did so without holding an evidentiary hearing. Salazar challenges the district court's dismissal for lack of personal jurisdiction over Gust and Dietrich.²

1. Applicable Law and Standard of Review

¶ 16 When, as here, a court decides a motion to dismiss for lack of jurisdiction on documentary evidence, without a hearing, "the plaintiff need only demonstrate a prima facie showing of personal jurisdiction to defeat the motion." *Archangel Diamond Corp. v. Lukoil*, 123 P.3d 1187, 1192 (Colo. 2005). The plaintiff meets this burden when he raises a reasonable inference, whether in the complaint or other documentary evidence, that the court has jurisdiction over the defendant. *Goettman v. N. Fork Valley Rest.*, 176 P.3d 60, 65 (Colo. 2007). The plaintiff's allegations must be accepted as true "to the extent they are not contradicted by defendant's competent evidence," and discrepancies in competent

¹ The district court made no ruling on C.R.C.P. 12(b)(4) grounds.

² Salazar mistakenly claims that Black Hills was also dismissed for lack of personal jurisdiction. The district court's order, however, specifically states "the court does not have in personam jurisdiction over *defendants Dietrich and Gust*." (Emphasis added.)

evidence must be resolved in the plaintiff's favor. *Archangel*, 123 P.3d at 1192.

¶ 17 If review of the documentary evidence reveals specific personal jurisdiction under the Colorado long-arm statute, “[d]ue process requires that a defendant have certain minimum contacts with the forum state so that he may foresee being answerable in court there.” *Id.* at 1194. We review a dismissal based on documentary evidence de novo. *Gognat v. Ellsworth*, 224 P.3d 1039, 1050 (Colo. App. 2009), *aff’d*, 259 P.3d 497 (Colo. 2011).

2. Analysis

¶ 18 Salazar produced no allegations or documentary filings that gave rise to a reasonable inference of the district court’s personal jurisdiction over Gust and Dietrich, who, through affidavits, submitted competent evidence that they were residents of South Dakota. *Goettman*, 176 P.3d at 65. We conclude the district court did not err, as Salazar failed to establish a prima facie showing of personal jurisdiction of Gust and Dietrich. *Archangel*, 123 P.3d at 1192.

B. Civil Theft and Fraud

¶ 19 We affirm dismissal of Salazar's civil theft and fraud claims, as both are barred by statute of limitations.

¶ 20 Statutes of limitations exist to discourage unnecessary delay once a legal cause of action has accrued. *Dove v. Delgado*, 808 P.2d 1270, 1274 (Colo. 1991). A legal cause of action accrues when the harm suffered is discovered or should have been known. See generally § 13-80-108, C.R.S. 2019. The statute of limitations for fraud claims is three years from when the cause of action accrues. See § 13-80-101, C.R.S. 2019. While Salazar cites the criminal code for his civil theft claim, to the extent such a claim does not sound in fraud, the applicable statute of limitations is two years. See § 13-80-102(1)(a), C.R.S. 2019 (providing a limitations period of two years for tort actions); § 13-80-102(1)(i) (providing a limitations period of two years for "[a]ll other actions of every kind for which no period of limitation is provided").

¶ 21 Here, the statute of limitations for Salazar's civil theft and fraud claims accrued when he learned that the title to the vehicle was not properly registered — that is, when Salazar admits he learned of the VIN error on July 6, 2013. The limitations period for

these claims expired by July 6, 2016, and thus the district court properly dismissed them. *See Wasinger v. Reid*, 705 P.2d 533, 534 (Colo. App. 1985) (recognizing that while a statute of limitations defense is generally raised in an answer to the complaint under C.R.C.P. 8(c), statute of limitations provides grounds for dismissal under Rule 12(b)(5) “when the time alleged in the complaint shows that the action was not brought within the statutory period”).

C. Notice of Voluntary Dismissal

¶ 22 Salazar argues that the order denying the notice of voluntary dismissal of credit union defendants filed after the order dismissing those defendants was error. We disagree.

¶ 23 Under C.R.C.P. 41(a), a plaintiff may voluntarily dismiss an action as a matter of right before an answer or summary judgment motion has been filed. Here, however, Salazar’s notice of voluntary dismissal had no effect, as the district court had already dismissed credit union defendants with prejudice; thus the district court did not err. *See People in Interest of C.G.*, 2015 COA 106, ¶ 12 (“An issue is moot when the relief sought, if granted, would have no practical effect on an existing controversy.”).

¶ 24 We likewise deem Salazar's argument that the district court lacked jurisdiction to issue the denial because it had already dismissed Gust and Dietrich for lack of personal jurisdiction to be without merit. *See, e.g., Currier v. Sutherland*, 218 P.3d 709, 711 (Colo. 2009) (holding that trial court retained subject matter jurisdiction over case despite the existence of improper defendant).

III. Claims Against All Defendants

A. Failure to State a Claim

1. Standard of Review and Applicable Law

¶ 25 We review a district court's dismissal of a complaint under C.R.C.P. 12(b)(5) de novo. *Campaign Integrity Watchdog LLC v. Colo. Republican Party Indep. Expenditure Comm.*, 2017 COA 32, ¶ 9.

¶ 26 Like the district court, we presume all matters of material fact in the complaint to be true and view them in the light most favorable to the plaintiff. *Warne v. Hall*, 2016 CO 50, ¶¶ 9, 27; *Fry v. Lee*, 2013 COA 100, ¶ 17. However, we ignore factual allegations that are conclusory, *Warne*, ¶ 37, or those that fail to raise a right to relief "above the speculative level," *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). To survive a motion to dismiss, the complaint must allege sufficient facts that, if accepted as true, state "a

plausible claim for relief.” *Warne*, ¶ 9 (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009)).

2. Quiet Title

¶ 27 Salazar’s “quiet title” claim raised under C.R.C.P. 57 was properly dismissed as to all defendants.

a. Actions Concerning Real Estate

¶ 28 As an initial matter, a quiet title action is not an appropriate means for Salazar to obtain the relief he seeks, as his dispute relates to personal property (the vehicle) and quiet title actions concern disputes involving land. *See, e.g., Beaver Creek Ranch, L.P. v. Gordman Leverich Ltd. Liab. Ltd. P’ship*, 226 P.3d 1155 (Colo. App. 2009) (in which landowner’s neighbor brought quiet title action to adjudicate ownership rights to disputed land near a fence line); *Camp Bird Colo., Inc. v. Bd. of Cty. Comm’rs*, 215 P.3d 1277 (Colo. App. 2009) (affirming quiet title of a road segment as a public right-of-way instead of private accessway). Quiet title actions are moreover governed by C.R.C.P. 105, not Rule 57. *Argus Real Estate, Inc. v. E-470 Pub. Highway Auth.*, 109 P.3d 604, 609 (Colo. 2005).

¶ 29 We also reject Salazar's argument that C.R.C.P. 105.1 and section 38-35-201, C.R.S. 2019, incorporate a right to bring quiet title claims for personal property, as both involve claims of spurious liens, not a quiet title action. Although Salazar may dispute Black Hills' attorney fees lien on the vehicle, he did not file a spurious lien claim against Black Hills in this case, and such a claim would be inapposite to all other defendants, as the credit union is the sole lienholder.

b. Declaratory Judgment Under Rule 57

¶ 30 Even were we to construe Salazar's "quiet title" claim as a declaratory judgment claim under C.R.C.P. 57, the district court properly dismissed it.

¶ 31 With respect to credit union and dealership defendants, neither group possesses the authority to confer title to an automobile and thus cannot provide the relief sought. The exclusive power to administer automobile vehicles belongs to the executive director of the DMV or its agents. See § 42-6-104, C.R.S. 2019.

¶ 32 With respect to state defendants, there is nothing to adjudicate concerning the vehicle title, as the law clearly puts the

onus on the vehicle purchaser to successfully complete the title application process, which Salazar never did with a correct VIN. See § 42-6-106(1), C.R.S. 2019. We recognize that Salazar's completion of a title application for the vehicle was initially derailed due to no fault of his own with the mixed-up VINs. But Salazar does not deny that Planet Honda and the DMV provided him a course of action to complete the title application *more than six years ago*. To ignore this viable course of action and simply provide Salazar the vehicle title by judicial fiat would circumvent the General Assembly's intent. See § 42-6-106(1)(a)-(c) (stating that "[n]o certificate of registration or license plates shall be issued for a motor vehicle" unless the vehicle owner produces evidence of title or completes title application).

3. Constitutional Violations Under 42 U.S.C. § 1983

¶ 33 In his amended complaint, Salazar brought four constitutional violations — unreasonable seizure, violation of procedural and substantial due process, and violation of equal protection — under 42 U.S.C. § 1983.

¶ 34 "The purpose of § 1983 is to deter state actors from using the badge of their authority to deprive individuals of their federally

guaranteed rights and to provide relief to victims if such deterrence fails.” *Wyatt v. Cole*, 504 U.S. 158, 161 (1992). For a claim to be actionable under § 1983, the challenged conduct must satisfy two conditions. First, the conduct must constitute state action; that is, action under color of state law. *Lugar v. Edmondson Oil Co., Inc.*, 457 U.S. 922, 930-31 (1982). Second, the conduct must deprive the claimant of a federally protected right or interest. *Id.*; *State v. Nieto*, 993 P.2d 493, 507 (Colo. 2000).

¶ 35 The district court properly dismissed the § 1983 claims against all defendants based on the following reasons:

- Despite Salazar’s conclusory assertions that credit union and dealership defendants acted in concert with state officials at the DMV to deny Salazar’s constitutional rights, § 1983 claims may only be brought against state actors. *See Lugar*, 457 U.S. at 937 (“[T]he party charged with the deprivation [of a constitutional right] must be a person who may fairly be said to be a state actor.”).
- Even assuming state defendants’ actions denying him a certificate of title until the correct VIN was submitted with his application could be construed as “seizure”

under the Fourth Amendment, any such claim was barred by the statute of limitations, which would have expired as of July 6, 2015: two years after Salazar discovered that he did not possess legally valid title. *See Nieto v. State*, 952 P.2d 834, 844 (Colo. App. 1997) (holding applicable statute of limitations for § 1983 actions is the two-year limitations period under section 13-80-102(1)(g), C.R.S. 2019), *aff'd in part, rev'd in part on other grounds*, 993 P.2d 493.

- With respect to procedural due process, Salazar raised no allegation that he requested a hearing after the May 2017 conversation with state defendants in the courtroom where the judge requested the parties to try and resolve the title issue, or in connection with a denied motor vehicle title application. *See* Div. of Motor Vehicles Rule 19.3.1, 1 Code Colo. Regs 204-10 (stating that individuals who have “been denied issuance of a Colorado certificate of title may request a hearing, in writing within thirty days after the denial notice is issued”).

- Regarding substantive due process, because Salazar alleged no violation of a fundamental right, the legislation or state action must bear a “rational relationship” to a legitimate governmental interest, *People v. Houser*, 2020 COA 76, ¶ 108 (Berger, J., concurring in part and dissenting in part), and Salazar failed to allege state defendants’ conduct was not rationally related to the statutes or regulations governing the motor vehicle registration or titling process.
- Finally, whereas the Equal Protection Clause of the Fourteenth Amendment “requires the government to treat similarly situated persons in a similar manner,” *HealthONE v. Rodriguez ex rel. Rodriguez*, 50 P.3d 879, 892 (Colo. 2002), Salazar raises no allegation that he is being treated differently from a similarly situated individual with an incorrect VIN, and we do not view his failure to fulfill the statutory requirements for issuance of a certificate of title to give rise to such a claim.

B. Alternative Grounds for Dismissal

- ¶ 36 State defendants urge us to affirm the district court's Rule 12(b)(5) dismissal on grounds the claims are barred by issue and claim preclusion, statute of limitations, and the Colorado Governmental Immunity Act. We decline to do so.³
- ¶ 37 While it is true that we may affirm a correct judgment on different grounds than relied on by the district court, *see Roque v. Allstate Ins. Co.*, 2012 COA 10, ¶ 7, dismissals under C.R.C.P. 12(b)(5) look at the merits of the plaintiff's claims, *Warne*, ¶ 46 (Gabriel, J., dissenting) (noting that certain rules of civil procedure, including Rule 12(b)(5), seek to address the merits of a particular claim); *see also Scott v. Scott*, 2018 COA 25, ¶ 12 ("[A] motion to dismiss under C.R.C.P. 12(b)(5) is an assertion that the plaintiff's complaint is legally insufficient and therefore 'mandates that the court analyze the merits of the plaintiff's claims.'" (quoting *Hemmann Mgmt. Servs. v. Mediacell, Inc.*, 176 P.3d 856, 858 (Colo.

³ To the extent Salazar's constitutional claims under § 1983 allegedly accrued as of a May 2017 conversation with state defendants, the two-year limitations period would not have elapsed before Salazar filed the underlying action in December 2018. *See* § 13-80-102(1), C.R.S. 2019.

App. 2007))). Thus, we see no reason to address the alternative grounds for dismissal, especially here, in Salazar's third dismissed lawsuit surrounding the same series of events.

C. Lack of Substantial Justification and Award of Attorney Fees

¶ 38 The district court's three dismissal orders all included a finding that Salazar's claims were "substantially groundless, substantially frivolous, and substantially vexatious" under section 13-17-102 and awarded "reasonable [attorney] fees and costs in having to defend against plaintiff's now third action."

¶ 39 Salazar challenges the district court's finding that his action lacked substantial justification and its related award of attorney fees. We dismiss this portion of the appeal, as there is no final appealable order as to attorney fees, and, to the extent one exists, Salazar did not file a motion to amend his notice of appeal. See *Axtell v. Park Sch. Dist. R-3*, 962 P.2d 319, 322 (Colo. App. 1998) (declining to address, and dismissing from appeal, plaintiff's contention that district court erred by finding complaint frivolous and groundless and awarding the opposing party attorney's fees under section 13-17-102, "because the order granting attorney fees does not determine the amount awarded" and "that portion of the

judgment is not final until the amount of fees is set by the trial court").

IV. Appellate Attorney Fees

¶ 40 All defendants request an award of appellate attorney fees and costs. See C.R.C.P. 107(d)(2); C.A.R. 39.1. We have independent discretion to award appellate attorney fees and costs separate from any attorney fee award imposed by the district court. See *Kennedy v. King Soopers Inc.*, 148 P.3d 385, 390 (Colo. App. 2006) (holding that reasonable attorney fees and costs may be recovered for successfully defending appeal, even when such fees were awarded in underlying action).

¶ 41 This is Salazar's third lawsuit surrounding the same title-related issues he has experienced with the same Honda CR-V vehicle, which he purchased over eight years ago. It is also the third such lawsuit to be dismissed, and the third dismissal to be affirmed by a division of this court. Given these facts — in addition to the fact that Salazar was provided an administrative solution to his title problem that would conceivably have avoided litigation, but Salazar repeatedly chose not to pursue it — we determine that all defendants are entitled to an award of their appellate attorney fees

and costs incurred in defense of this action. But we remand to the district court to determine the amount of reasonable appellate attorney fees. See C.A.R. 39.1 ("In its discretion, the appellate court may determine entitlement to and the amount of an award of attorney fees for the appeal, *or may remand those determinations to the lower court or tribunal.*") (emphasis added).

V. Conclusion

¶ 42 We affirm the district court's judgments of dismissal against all defendants, the denial of the notice of voluntary dismissal against credit union defendants, and an award of attorney fees and costs for successful defense of this appeal to all defendants, but we dismiss the appeal with respect to an award of attorney fees under section 13-17-102(4) for lack of a final appealable order.

JUDGE TERRY and JUDGE RICHMAN concur.

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: March 1, 2021
Certiorari to the Court of Appeals, 2019CA889 District Court, Adams County, 2018CV124	
Petitioner: Frank Salazar, v.	Supreme Court Case No: 2020SC844
Respondents: Kitty Gust; Anthony Anderson; Golden Automotive Group, LLC, d/b/a Planet Honda; DeeAnn Dietrich; Kevin Kihn; Leo Payne; and Black Hills Federal Credit Union.	
ORDER OF COURT	

Upon consideration of the Petition for Writ of Certiorari to the Colorado Court of Appeals and after review of the record, briefs, and the judgment of said Court of Appeals,

IT IS ORDERED that said Petition for Writ of Certiorari shall be, and the same hereby is, DENIED.

BY THE COURT, EN BANC, MARCH 1, 2021.

DISTRICT COURT, ADAMS COUNTY, COLORADO		DATE FILED: April 05, 2019 11:55 AM
Court Address: 1100 Judicial Center Drive, Brighton, CO, 80601		
Plaintiff(s) FRANK SALAZAR v. Defendant(s) ANTHONY J ANDERSON et al.		<p style="text-align: center;">△ COURT USE ONLY △</p>
		Case Number: 2018CV124 Division: W Courtroom:
<p style="text-align: center;">Order: Defendants Black Hills Federal Credit Union, DeeAnn Dietrich and Kitty Gust Motion to Dismiss First Amended Complaint</p>		

The motion/proposed order attached hereto: GRANTED.

Before the Court is the defendants' motion to dismiss pursuant to C.R.C.P 12(b)(1) and (5) filed March 8, 2019. Plaintiff filed his response on March 18, 2019. And, defendants filed their reply on April 4, 2019.

The court has reviewed the defendants' motion, plaintiff's response, and defendants' reply. After doing so, the court finds that plaintiff has failed to state any claims upon which relief may be granted and that the court does not have in personam jurisdiction over defendants Dietrich and Gust. Accordingly, defendants' motion to dismiss is granted.

The Court further finds that plaintiff's complaint lacks substantial justification as defined under C.R.S. 13-17-102(4) in that the instant action is substantially groundless, substantially frivolous, and substantially vexatious and has been interposed by plaintiff for purposes of harassing and /or annoying the defendants. Further, the court finds that plaintiff clearly knew or reasonably should have known that the instant action was substantially groundless, substantially frivolous and substantially vexatious. Indeed, plaintiff has filed 2 prior lawsuits alleging essentially the same set of "facts" and both actions have been dismissed. Accordingly, defendant is entitled to an award of its reasonable attorneys fees and costs in having to defend against plaintiff's now third action that lacks substantial justification.

Within 21 days of the date of this order, defendant shall submit an affidavit of attorneys fees and costs. Plaintiff shall then have 14 days to file a response . And Defendant shall have 7 days to file a reply after defendants receive plaintiff's response.

Issue Date: 4/5/2019

ROBERT WALTER KIESNOWSKI JR
District Court Judge

DISTRICT COURT, ADAMS COUNTY, COLORADO		DATE FILED: April 10, 2019 11:38 AM
Court Address: 1100 Judicial Center Drive, Brighton, CO, 80601		
Plaintiff(s) FRANK SALAZAR v. Defendant(s) ANTHONY J ANDERSON et al.		<p style="text-align: center;">△ COURT USE ONLY △</p> <p>Case Number: 2018CV124 Division: W Courtroom:</p>
<p style="text-align: center;">Order: Defendants Golden Automotive Group, LLC dba Planet Honda and Leo Payne's Motion to Dismiss Plaintiff's Amended Complaint Pursuant to CRCP 12b5</p>		

The motion/proposed order attached hereto: GRANTED.

Before the court is defendants' motion to dismiss filed March 11, 2019. Plaintiff filed his response on April 8, 2019. Defendants need not file a reply.

The court has reviewed defendants' motion and plaintiff's response. After doing so, the court finds that plaintiff has failed to state any claims against defendants' upon which relief may be granted. Accordingly, defendants' motion is granted and plaintiff's complaint is dismissed with prejudice.

The court further finds that plaintiff's complaint lacks substantial justification as defined under C.R.S. 13-17-102(4) in that the instant action is substantially groundless, substantially frivolous, and substantially vexatious and has been interposed by plaintiff for purposes of harassing and/or annoying defendants. Further, the court finds that plaintiff clearly knew or reasonably should have known that the instant action is substantially groundless, substantially frivolous, and substantially vexatious. Indeed, plaintiff has filed two (2) prior lawsuits alleging essentially the same set of "facts" and both actions have been dismissed. Accordingly, defendants are entitled to an award of their reasonable attorney fees and costs in having to defend against plaintiff's now third action that lacks substantial justification.

Within 21 days of the date of this order, defendants shall submit an affidavit of attorney fees and costs. Plaintiff shall then have 14 days to file a response. Defendants shall then have seven (7) days to file a reply.

Issue Date: 4/10/2019

ROBERT WALTER KIESNOWSKI JR
District Court Judge

DISTRICT COURT, ADAMS COUNTY, COLORADO		DATE FILED: April 24, 2019 1:58 PM
Court Address: 1100 Judicial Center Drive, Brighton, CO, 80601		
Plaintiff(s) FRANK SALAZAR v. Defendant(s) ANTHONY J ANDERSON et al.		<p style="text-align: center;">△ COURT USE ONLY △</p>
		Case Number: 2018CV124 Division: W Courtroom:
<p style="text-align: center;">Order: State Defendants Motion to Dismiss Amended Complaint Under CRCP 12(b)(1) and 12(b)(5) and Request for Award of Attorney Fees</p>		

The motion/proposed order attached hereto: GRANTED.

The court has reviewed the defendants' motion and plaintiff's response. A reply is unnecessary. After doing so, the court finds that plaintiff has failed to state any claims upon which relief may be granted against these defendants. Accordingly, defendants' motion to dismiss is granted.

The Court further finds that plaintiff's complaint lacks substantial justification as defined under C.R.S. 13-17-102(4) in that the instant action is substantially groundless, substantially frivolous, and substantially vexatious and has been interposed by plaintiff for purposes of harassing and /or annoying the defendants. Further, the court finds that plaintiff clearly knew or reasonably should have known that the instant action was substantially groundless, substantially frivolous and substantially vexatious. Indeed, plaintiff has filed 2 prior lawsuits alleging essentially the same set of "facts" and both actions have been dismissed. Accordingly, defendant is entitled to an award of its reasonable attorneys fees and costs in having to defend against plaintiff's now third action that lacks substantial justification.

Within 21 days of the date of this order, defendant shall submit an affidavit of attorneys fees and costs. Plaintiff shall then have 14 days to file a response . And Defendant shall have 7 days to file a reply after defendants receive plaintiff's response.

Issue Date: 4/24/2019

ROBERT WALTER KIESNOWSKI JR
District Court Judge

DISTRICT COURT, ADAMS COUNTY, COLORADO Court Address: 1100 Judicial Center Drive, Brighton, CO, 80601	DATE FILED: April 24, 2019 1:51 PM
Plaintiff(s) FRANK SALAZAR v. Defendant(s) ANTHONY J ANDERSON et al.	
<p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2018CV124 Division: W Courtroom:	
<p style="text-align: center;">Order: Plaintiff's Notice to Dismiss without prejudice claims against Black Hills FCU, Deann Dietrich and Kitty Gust</p>	

The motion/proposed order attached hereto: DENIED.

The court already dismissed plaintiff's amended complaint against these defendants on April 5, 2019. Thus, nothing remains to be dismissed with respect to these defendants.

Issue Date: 4/24/2019

ROBERT WALTER KIESNOWSKI JR
 District Court Judge

DISTRICT COURT, ADAMS COUNTY, COLORADO Court Address: 1100 Judicial Center Drive, Brighton, CO, 80601	DATE FILED: May 16, 2019 9:24 AM
Plaintiff(s) FRANK SALAZAR v. Defendant(s) ANTHONY J ANDERSON et al.	
Order: Plaintiff's Motion for Relief from Order of April 24, 2019 Pursuant to C.R.C.P. 60(b)	

The motion/proposed order attached hereto: DENIED.

Issue Date: 5/16/2019

ROBERT WALTER KIESNOWSKI JR
 District Court Judge

DISTRICT COURT, ADAMS COUNTY, COLORADO		DATE FILED: May 22, 2019
Court Address: 1100 Judicial Center Drive, Brighton, CO, 80601		
Plaintiff(s) FRANK SALAZAR v. Defendant(s) BLACK HILLS FEDERAL CREDIT UNION et al.		△ COURT USE ONLY △
		Case Number: 2019CV60 Division: A Courtroom:
Order Striking Complaint and to Show Cause Re: Dismissal		

Issue Date: 5/22/2019

leaf B

JACLYN CASEY BROWN
District Court Judge

District Court, Adams County, State of Colorado 1100 Judicial Center Drive, Brighton, CO 80601 303-659-1161		DATE FILED: May 23, 2019
Plaintiffs: Frank Salazar	Defendants: Black Hills Federal Credit Union DeeAnn Dietrich; and Kitty Gust	Case No. 2019 CV 60 Div. C Courtroom 506
Order Striking Complaint and to Show Cause Re: Dismissal		

CRCP 12(f) permits a court on its own motion to strike any redundant or immaterial matter from any pleading. CRCP 1(a) provides that the rules of civil procedure should be liberally construed, administered and employed by the court to secure the just, speedy and inexpensive determination of every action.

Plaintiff's Complaint is 17 single-spaced pages. It is unduly prolix and unnecessarily detailed. For no legal reason it includes citations to appellate cases from various state and federal jurisdictions and legal argument. For example, see ¶¶8, 9, 45, 46, 49, 50, 51, 53, 54, and continuing through ¶126.

There is no valid reason for a defendant to have to admit or deny the various ramblings included in the Complaint. The minutiae included in the Complaint is redundant and immaterial. Responding to the Complaint as presently structured unnecessarily increases the expense of this litigation.¹ "Pro se litigants are bound by the same rules of civil procedure as attorneys licensed to practice law in this state. see also *People v. Romero*, 694 P.2d 1256 (Colo.1985) (pro se defendants are entitled to no greater safeguards or benefits than if they are represented by counsel)." *Negron v. Golder*, 111 P.3d 538 (Colo.App. 2004).

ORDER:

1. The Complaint is stricken.
2. Within 35 days, plaintiffs shall file an amended complaint, double spaced, and no greater than ten pages; or within that time show cause in writing why the case should not be dismissed for failure to prosecute and/or failure to comply with this Order.
3. Service of process of the amended complaint must include a copy of this Order.

Dated: May 22, 2019

BY THE COURT:



Edward C. Moss
District Court Judge

¹ The Complaint also appears to make claims against the same defendants who were sued in plaintiff's lawsuit in Adams County Case No. 2018-CV-124. That case was dismissed and plaintiff was held responsible for certain of the defendants' attorney fees.

Chief Judge of the 17th Judicial District

DISTRICT COURT, ADAMS COUNTY, STATE OF COLORADO

Court Address: Adams County Combined Courts
1100 Judicial Center Drive
Brighton, CO 80601

DATE FILED: May 24, 2019

Plaintiffs: **FRANK SALAZAR**

v.

Defendant: **BLACK HILLS FEDERAL CREDIT UNION et al.**

COURT USE ONLY

Case Number: **2019CV60**

Division: **B (Broomfield)**

Courtroom: **3**

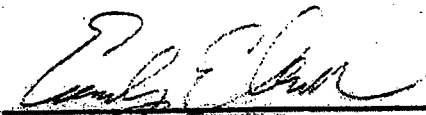
AMENDED ORDER ON REASSIGNMENT

The Court has received and reviewed an agreement regarding reassignment to Division A of the Adams County District Court to Division W of the Adams County District Court.

The Court finds the agreement to be acceptable. This case is hereby reassigned to Division W of the Adams County District Court.

Dated at Brighton, Colorado this 24th day of May 2019.

BY THE COURT:



EMILY E. ANDERSON

Chief Judge of the 17th Judicial District

DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, Colorado 80401	
FRANK SALAZAR, Plaintiff, v. ANTHONY J. ANDERSON, AND GOLDEN AUTOMOTIVE GROUP LLC TRADE NAME PLANET HONDA Defendants.	
Attorneys for State Defendant: CYNTHIA H. COFFMAN, Attorney General PATRICK L. SAYAS, Senior Assistant Attorney General, 24460* Ralph L. Carr Judicial Center 1300 Broadway, 10 th Floor Denver, CO 80203 Telephone: 720-508-6633 Fax: 720-508-6032 e-mail: pat.sayas@coag.gov *Counsel of Record	Case No.: 2017 CV 186 Div: 8
<p style="text-align: center;">DEFENDANT ANDERSON'S MOTION TO DISMISS PLAINTIFF'S VERIFIED COMPLAINT IN REPLEVIN PURSUANT TO C.R.C.P. 12(b)(1) AND (5)</p>	

Defendant, Anthony J. Anderson, by and through the Attorney General of the State of Colorado, respectfully moves this Court for an Order dismissing the Complaint pursuant to C.R.C.P. 12(b)(1) and (5), and in support states the following:

CONFERRAL

Rule 121, Section 1-15(8) requires that the parties confer before the filing of a motion. The undersigned attempted to confer with Plaintiff via e-mail regarding the substance of the motion and as of this writing Plaintiff has not responded.

INTRODUCTION

Defendant Anderson, a State employee, is Director of Operations for Titles and Registration for the Colorado Department of Revenue's Division of Motor Vehicles. Plaintiff filed a replevin action regarding a motor vehicle that he purchased. Even though Plaintiff has physical possession of the vehicle, he alleges that because the Division of Motor Vehicles did not issue him with a certificate of title for the vehicle Anderson has "constructive possession" of the vehicle. *Complaint*, at ¶ 6. Anderson explained to Plaintiff that he could not receive title unless he completes the necessary paperwork and perfects the lien on the vehicle. *Anderson Affidavit (Exhibit A to this Motion to Dismiss)*. Plaintiff's replevin action seeks possession of the car or its value, and damages for loss of use. *Id.* at P. 3. Because Anderson is a State employee, Plaintiff's claim against him is controlled by the Colorado Governmental Immunity Act (CGIA). § 24-10-106, C.R.S. (2016); § 24-10-118(2)(a).

JEFFERSON COUNTY DISTRICT COURT STATE OF COLORADO 100 Jefferson County Parkway Golden, CO 80401	
FRANK SALAZAR, Plaintiff, v. ANTHONY J. ANDERSON; CRYSTAL SODERMAN; LOLA LUNA; KEVIN KEENE; GOLDEN AUTOMOTIVE GROUP, LLC, TRADE NAME: PLANET HONDA, Defendants.	<p style="text-align: center;">^ COURT USE ONLY ^</p>
CYNTHIA H. COFFMAN, Attorney General PATRICK L. SAYAS, Sr. Asst. Attorney General* Ralph L. Carr Colorado Judicial Center 1300 Broadway, 10 th Floor Denver, CO 80203 (720) 508-6633; Fax: 720-508-6032 pat.sayas@coag.gov Registration Number: 24460 *Counsel of Record for State Defendant	Case No. 17-cv-186 Div. 8
AFFIDAVIT OF ANTHONY J. ANDERSON	

STATE OF COLORADO)
) ss.
 County of Jefferson)

I, Anthony J. Anderson, being over the age of 18 years, and being first duly sworn to oath, state and affirm as follows:

1. I am a defendant in this case. At all relevant times I was Operations Director of the Title and Registration Section for the Division of Motor Vehicles ("DMV") in the Colorado Department of Revenue.

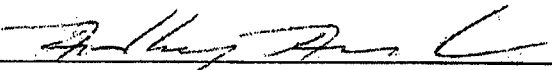
2. Attached as Attachment 1 to this affidavit is a copy of a letter I received from Frank Salazar dated January 3, 2015.

3. Also attached to this affidavit, as Attachment 2, is a copy of a letter dated January 13, 2015 that I wrote in response to Mr. Salazar's letter dated January 3, 2015.

4. As expressed in my letter of January 13, 2015, based on my experience and knowledge in my capacity as a DMV Operations Director, Mr. Salazar cannot receive a certificate of title for his vehicle until he completes the necessary paperwork and perfects the lien on the vehicle. To date, Mr. Salazar has not satisfied these requirements.

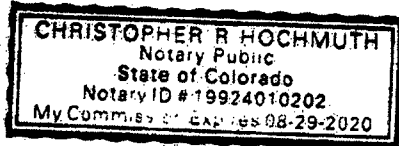
5. Neither myself, nor anyone else employed with the State of Colorado, to my knowledge, is in possession of the vehicle referred to by Mr. Salazar in his letter of January 3, 2015.

FURTHER THE AFFIANT SAYETH NAUGHT.


Anthony J. Anderson, Operations Director
Title and Registration Section
Division of Motor Vehicles
Colorado Department of Revenue

The foregoing Affidavit of Anthony J. Anderson was subscribed and sworn to before me in Jefferson County this 12th day of May, 2017 by Anthony J. Anderson.

My Commission expires:



Christopher R. Hochmuth
Notary Public
Address: 1881 Prime St. #146
Lakewood, CO 80214

Attachment 6



COLORADO
Department of Revenue

303-205-5608
1500-1500-1500
1500-1500-1500

January 13, 2015

Mr. Frank Salazar
P O Box 260415
Lakewood, CO 80226

Dear Mr. Salazar:

Thank you for your correspondence Dated January 3, 2015. Your request for continued issuance of temporary permits will not be granted at this time. The Department did use discretion and authorized the issuance of more than two temporary registration permits while there was an open investigation with the Auto Industry Division. Once the investigation was complete and it was determined that the complaint against Planet Honda was unfounded, the need for issuance of additional temporary permits concluded. It is now up to you to complete the paperwork to establish a certificate of title and perfect the lien on the vehicle you have been driving for the last two years.

If you have questions regarding the titling process, please contact the Title and Registration Section at 303-205-5608.

Sincerely,

Tony Anderson
Operations Director
Title and Registration Section
Division of Motor Vehicles

2017 MAY 10 AM 9:08
JEF-1500-1500-1500
1500-1500-1500

DISTRICT COURT, JEFFERSON COUNTY, COLORADO		DATE FILED: May 22, 2017
Court Address: 100 Jefferson County Parkway, Golden, CO, 80401-6002		
Plaintiff(s) FRANK SALAZAR v. Defendant(s) ANTHONY J ANDERSON et al.		⚠ COURT USE ONLY ⚠ Case Number: 2016CV259 Division: 5 Courtroom:
Order: Plaintiff's Notice to Dismiss Without Prejudice Claims Against State Defendants and Planet Honda		

The motion/proposed order attached hereto: **GRANTED WITH AMENDMENTS**

Plaintiff seeks to dismiss his claims against defendant Planet Honda without prejudice. This request is granted. The State Defendants were dismissed from the case on March 30, 2017 when the court granted their Motion to Dismiss the Amended Complaint. As there are no remaining defendants, the court hereby closes the case.

Issue Date: 5/22/2017



DENNIS JAMES HALL
District Court Judge

17CA0882 Salazar v Anderson 11-08-2018

COLORADO COURT OF APPEALS

DATE FILED: November 8, 2018

Court of Appeals No. 17CA0882
Jefferson County District Court No. 16CV259
Honorable Dennis J. Hall, Judge

Frank Salazar,

Plaintiff-Appellant,

v.

Anthony J. Anderson, Crystal Soderman, Lola Luna, and Kevin Keene,
Defendants-Appellees.

JUDGMENT AFFIRMED
AND APPEAL DISMISSED IN PART

Division V
Opinion by JUDGE WELLING
Román and Vogt*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)
Announced November 8, 2018

Frank Salazar, Pro Se

Cynthia H. Coffman, Attorney General, Patrick L. Sayas, Senior Assistant
Attorney General, Denver, Colorado, for Defendants-Appellees

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art.
VI, § 5(3), and § 24-51-1105, C.R.S. 2018.

with the title. Salazar said no. Even in the light most favorable to Salazar, there is nothing coercive about these circumstances.

¶ 19 Accordingly, the trial court did not err by granting the State Defendants' motion to dismiss Salazar's claim that he was coerced into participating in an illegal transaction.

D. Claims Against Dealership

¶ 20 Finally, Salazar argues that the trial court erred in dismissing his amended complaint without giving him the opportunity to amend the complaint a second time to bring additional claims against the Dealership and to add additional defendants. But this argument ignores the fact that Salazar never filed a motion to amend the complaint a second time and instead voluntarily dismissed all the claims he brought against the Dealership.

¶ 21 The third, fourth, fifth, and sixth claims in Salazar's amended complaint seek relief from the Dealership. After the trial court issued its order dismissing the claims brought against the State

Defendants, Salazar voluntarily dismissed all his claims against the Dealership pursuant to C.R.C.P. 41(a)(1)(A).²

¶ 22 Under Rule 41(a)(1)(A), a plaintiff may dismiss a claim without court approval at any time before the adverse party answers the complaint or files a motion for summary judgment. Here, the Dealership filed a motion to quash service, but had not answered or moved for summary judgment. Then, while the motion to quash was pending, Salazar dismissed his claims against the Dealership.

¶ 23 If an answer or motion for summary judgment has not been filed, a plaintiff “need only file a notice of dismissal with the court” in order to dismiss the case. *Burden v. Greeven*, 953 P.2d 205, 207 (Colo. App. 1998). Because the Dealership had not answered or filed a motion for summary judgment, the dismissal was effective when Salazar filed his notice. Accordingly, that portion of the appeal is dismissed.

² In fact, the notice of voluntary dismissal that Salazar filed purports to dismiss the amended complaint in its entirety. But because it was filed after the trial court had already dismissed his claims against the State Defendants pursuant to C.R.C.P. 12(b)(5), we are treating the notice of voluntary dismissal as only dismissing the then-remaining claims, which were the ones asserted against the Dealership.

DISTRICT COURT, COUNTY OF ADAMS, STATE
OF COLORADO
Civil Action No. 18-CV-124

TRANSCRIPT OF AN
ELECTRONICALLY-RECORDED HEARING

FRANK SALAZAR,
Plaintiff,
v.
ANTHONY ANDERSON, ET. AL.,
Defendants.

The hearing in this matter commenced on
the 20TH day of June, 2019, before THE
HONORABLE ROBERT KIESNOWSKI, Judge of
the District Court, Division W.

FOR THE PLAINTIFF: Appearing
Pro Se

FOR THE DEFENDANTS:
TIMOTHY LAMB, Reg. No. 11334
PAT SAYAS, Reg. No.
HEATHER WHITMAN, Reg. No.
JESSICA ROSS, Reg. No.
CAROLINE VENTRI, Reg. No.

PROCEEDINGS

(The following proceedings were had and entered of record on this the 20th day of June, 2019.)

THE COURT: 18-CV-124, Frank Salazar v. Anthony Anderson, et. al. Sir, I presume you are Mr. Salazar?

MR. SALAZAR: Ah, yes, Your Honor.

THE COURT: Great. Thank you. All right. Counsel, if you'd all be good enough to enter your appearances and tell me who you're representing.

* * *

MR. SALAZAR: Okay. All right. (pause) All right, ah---Defendant's Black Hills Federal Credit Union, DeeAnn Dietrich, Kitty Gust, affidavit of attorney fees and costs. Ah, this was submitted by Mr. Khalife, and I see that his associate is here today, so, ah---I guess she's---you're okay with answering any questions about his affidavit?

MS. VELTRI: I'll do my best.

MR. SALAZAR: Okay. Ah, I did not receive billing statements from them, ah---per---per your order.

So I am proceeding on just what was attached to the affidavit, so....ah....

MS. VELTRI: Early....ah, Your Honor, earlier this week....

THE COURT: Counsel, I need you to go to the podium so I can hear you.

MS. VELTRI: Oh, sorry. I apologize, Your Honor. Ah, earlier this week I filed stating that this affidavit covered everything as to billing.

THE COURT: (pause) What date?

MS. VELTRI: I believe it was Monday, June 17th.

THE COURT: There's no filings on June 17th, Counsel.

MS. VELTRI: Possibly Friday then? June 14th?

THE COURT: (pause) Is that the one where you're saying you filed all the billing statements on the 25th of April?

MS. VELTRI: Yes, that's correct.

THE COURT: You should have got that, Mr. Salazar.

MR. SALAZAR: I haven't received that.

THE COURT: Well, I see it. (pause) And it tells me that...(pause)...Lissa, would you take a look at this? I---it doesn't look like it was mailed. (pause) I'm gonna print it out for you, Mr. Salazar.

MR. SALAZAR: Thank you.

THE COURT: It doesn't look like it was mailed to Mr. Salazar. (pause) And....some pro se settings. Counsel, you obviously---you have a certificate of service, but the Court also sends, ah---I click on the service icon, and he's not on it, so the Clerk's Office obviously didn't send it to him.

MR. SALAZAR: Ah, I just had a question whether it was mailed to me. Did you mail it to me?

MS. VELTRI: I do not personally know.

MR. SALAZAR: Oh, okay, so you don't know if anyone over there actually did serve me with it—ah, from your firm?

MS. VELTRI: I was not...

THE COURT: Well, there's a certificate of mailing to everybody.

MS. VELTRI: ...the one to do it, so I...I assumed so.

MR. SALAZAR: Oh, all right.

MS. VELTRI: It was my impression that that would be the case.

THE COURT: Okay, well, it didn't happen.

MS. VELTRI: Okay.

THE COURT: (pause) Here you go, Mr. Salazar.

MR. SALAZAR: Okay. May I approach, Your Honor?

THE COURT: Certainly. Do you want to take a few minutes to review that?

MR. SALAZAR: Just one second.

THE COURT: Okay.

//

MR. SALAZAR: So, just a question for clarification. This is what the Court received on the 14th?

THE COURT: That's what I received on April....(pause)...April 25th.

MR. SALAZAR: The 25th? Okay. Yeah, I already have that. Ah, okay, so...(pause)...I...my question about this....well, I have a few questions about the information in here. Ah, the first one is, on 1/8 of 2019, a phone call with Roger Bach. I just wanted to know who Roger Bach was.

MS. VELTRI: I honestly do not know, because I have had no involvement with this case up until today, essentially.

THE COURT: Okay.

MR. SALAZAR: Ah, why isn't Mr. Khalife here?

MS. VELTRI: Ah, Mr. Khalife is not in the country at the moment.

MR. SALAZAR: But he's supposed to be here. (pause) Ah, so....another question here. January 11th, 2019, ah---I guess Mr. Khalife has here, in-depth call with Plaintiff pro se. I'm sorry, Your Honor, ah---my records don't reflect that, so...

THE COURT: Okay. Just give me a second. I want to put a copy of this in front of me, and I'll check off every item that you want to discuss. Okay?

MR. SALAZAR: Okay.

//

THE COURT: All right, so you're questioning the entry from 1/8, correct?

MR. SALAZAR: Ah, yeah. I just want to know who Roger Bach is. I...I've never heard that name.

THE COURT: Okay. All right. Ah, from 1/11, correct?

MR. SALAZAR: 1/11...yeah, I....I may be wrong, but I don't have any record of...

THE COURT: Okay.

MR. SALAZAR: ...having a phone call with Mr. Khalife that day.

THE COURT: That's fine.

MR. SALAZAR: Ah...(pause)...

MS. VELTRI: Well, Mr. Khalife would have had to confer with you in order to file a motion to dismiss, and if you read the rest of the second sentence of that bill, it said that he began the motion...drafting the motion to dismiss after he conferred with you, which is...ah, it's a rule that he has to confer with you in order to file a motion like that.

MR. SALAZAR: Right. He says he had an in-depth

call with me. That doesn't mean he did. (pause)
And you're here, and he's not here, so he doesn't
have any records or anything to confirm that he
actually had a call with me.

THE COURT: Okay. Well...

MR. SALAZAR: And I'm challenging that.

THE COURT: You made your point. Let's move to
the next---the next---

MR. SALAZAR: Well, I'm just responding to her.

THE COURT: That's fine.

MR. SALAZAR: Ah, 3/17/2019.

THE COURT: 3/17/19?

MR. SALAZAR: Yes. (pause) Oh, I'm sorry...3/7.

THE COURT: 3/7?

MR. SALAZAR: Yeah, 3/7. My mistake. Ah,
phone call with counsel for Honda and counsel for
dealership and Leo Payne discussing the
case....how to respond to Plaintiff's new amended
complaint and strategy for motion to dismiss. Ah, I
fail to see a reason why they would need to call and
talk to another defendant that their general

counsel at Black Hills Federal said, we can sue them....ah, that is, Planet Honda. And so, I don't know what the reason would be for Mr. Khalife to talk with Mr. Lamb and Mr. Payne. But, he's not here, so he can't explain that.

THE COURT: Go ahead, Mr. Lamb.

MR. LAMB: Ah, Your Honor, that is indicated on my affidavit. I did have a call with Mr. Khalife, and it is not unusual or irregular that younger counsel will call older counsel sometimes to discuss it, and I've been around a long time, so---and that's what that really was, was to see kind of where we were going with things, and if it was consistent with what Mr. Khalife was thinking, too. Ah, that's one of the reasons we read all the pleadings that come in, even if it's not about our client, to kind of--because other----other lawyers have great ideas. So, it---it's part of the---of the work product and planning.

THE COURT: Okay.

MR. SALAZAR: Okay, I have a question about the entry on 3/12/2019.

THE COURT: Okay.

MR. SALAZAR: Phone call and multiple e-mail exchange with Ben Brockman of C.U.N.A. Mutual

regarding case status and billing on case. Ah, who is Ben Brockman? How is he related to this, and why should there be a billing for this?

THE COURT: Do you know, Counsel?

MS. VELTRI: I don't.

THE COURT: Okay. Next item.

MR. SALAZAR: Okay. Ah, 3/19, the very next item....2019. Phone call and e-mail with Plaintiff. I'm sorry...I don't have any record of that, so....maybe I'm wrong. Mr. Khalife will have to....

THE COURT: Okay.

MR. SALAZAR:address that. (pause) Ah, what does this mean? Ah, 3/21/2019, ah....review Plaintiff's thirty-one page motion for summary judgment, e-mail exchange with Plaintiff and e-mail exchange with client and carrier. Ah, carrier? Who is he referring to?

THE COURT: Probably an insurance carrier.

MR. SALAZAR: An insurance carrier? Is....that what you think?

MS. VELTRI: Yes.

MR. SALAZAR: Would that be C.U.N.A. Mutual?

MS. VELTRI: (pause) That's, ah---very likely.

MR. SALAZAR: Okay. And on 4/1/2019, transmit to client and adjuster by e-mail? I guess that would be an adjuster from the insurance company? Is that...

THE COURT: Did you say 4/19?

MR. SALAZAR: Ah, 4/1/2019.

THE COURT: 4/1?

MR. SALAZAR: Yes.

T

HE COURT: Okay. (pause) Okay?

MR. SALAZAR: Ah, since Mr. Khalife isn't here, ah---he's got some filings on page eight. I just wanted to know what they were. I'm sure they're related---that---things that he probably had to do to---on 1/18/2019, he had an electronic court filing. I just wanted to know what it was. (pause) Maybe an entry of appearance, or....or something like that?

THE COURT: Well, just give me a second, and I'll tell you what it was.

MR. SALAZAR: Okay.

THE COURT: On 1/18, we have Defendant Black Hills Federal Credit Union's motion for enlargement of time to file their answer. Then there's Exhibit A, and then there is also a proposed order.

MR. SALAZAR: Okay. And, ah----then on 2/4/2019, ah---two hundred and five dollars and fifty cents---it's an electronic filing?

THE COURT: And indeed it is. The same holds true for 3/8.

MR. SALAZAR: Okay. All right. (pause) And I'll...

THE COURT: And that's all in connection---the 3/8 entry is in connection with their reply in support of a motion to dismiss.

MR. SALAZAR: Right. (pause) All right, ah---this--what this is, appears to be some kind of---well, I don't know what it is, but it doesn't appear to be a billing statement. Nowhere on this does---is it---is it marked Black Hills Federal and the other Defendants in their mailing address and...we're mailing this to you, and this is a billing statement. Whereas, in the case of, ah---Golden Automotive Group, you can see very clearly from the billing

statements that they're---they're---they're billing statements, and they're actually sent to the client, and the client's name and address and everything is on it, so I fail to see how these would qualify as billing statements, because there is no indication on them that they were even sent to the client.

THE COURT: Are you familiar with the bills, Counsel?

MS. VELTRI: Yes, I am.

THE COURT: All right. Are these your bills?

MS. VELTRI: They are.

THE COURT: Okay, that answers the question.

MR. SALAZAR: Okay. All right. (pause) Those were the only questions I had, ah---Your Honor.

* * *

MR. SAYAS: (pause) Your Honor, on behalf of the State, (inaudible). Thank you.

THE COURT: Okay. Other than reasonable, necessary, and causally-related.

MR. SAYAS: Reasonable and necessary. We stand on our---our billings. Thank you.

THE COURT: Okay. Anything else, Counsel? Ah, I---you know, I presume that you're all gonna say the same thing, but...put it on the record. Okay? Because whatever I do here is gonna go up to the Court of Appeals, so let's have a good record.

MS. VELTRI: Yes, I also contend that...

THE COURT: Okay.

MS. VELTRI: ...those bills have...

THE COURT: You concur with what counsel...ah, join. (pause) Let's get it on the record, please.

MS. WHITMAN: Your Honor, I stand on my affidavit and concur with counsel's comments.

THE COURT: Okay.

MS. ROSS: Your Honor, Jessica Ross. I concur with counsel's comments, and stand on my affidavit as well.

THE COURT: All right. Mr. Salazar, anything else you'd like to add, Sir?

MR. SALAZAR: Ah, I just wanted to know if it would be possible to have Mr. Khalife answer the questions that I asked in some way...in some form.

Ah, if...

THE COURT: He's not here. He couldn't answer; counsel couldn't answer. I'm disallowing those amounts...simple as that.

MR. SALAZAR: Oh, okay. Thank you, Your Honor.

THE COURT: Anything else, Sir?

MR. SALAZAR: Ah...(pause)...not that I can think of.

THE COURT: Okay. All right. I will issue a written order on the attorney's fees. Okay? Ah, however, we have---being that Mr. Salazar is here, ah---you've yet again filed another action. It was assigned to Judge Moss. Given that I'm been dealing with this action, it got reassigned to me. Judge Moss did order that you file an amended complaint, and I don't remember how many days he gave you to do so. And then, in response to that---I presume you got that order at some point.

MR. SALAZAR: Ah...one moment. (pause) Ah, yeah, I think I did.

THE COURT: Okay.

MR. SALAZAR: Ah, it was, ah---I got it on May 30th.

THE COURT: Okay. And the initial order that got vacated, you filed a motion for the refund of your filing fee. I denied it, because you had already filed the action. Ah, when is this gonna end?

MR. SALAZAR: Ah, I believe I have thirty-five days to file a response?

THE COURT: I don't....Lissa, do you remember the new case number?

CLERK: 19-CV-60.

THE COURT: 19-CV-60?

CLERK: Yes.

THE COURT: Okay.

CLERK: He has thirty-five days from June 12th.

THE COURT: Okay.

CLERK: Of...(pause)...forty-five days.

THE COURT: I'm calling it up right now.

CLERK: Thirty-five days from May 23rd.

THE COURT: Okay. (pause) All right. When I

reviewed it, it largely looks like everything you've asserted in this lawsuit, and the prior lawsuits that were dismissed, and went up to the Court of Appeals, and the dismissals were affirmed.

(pause) Mr. Salazar, I don't---I don't know if, ah---maybe you just don't have better things to do with your time, ah---but you need to understand something. We have limited resources, judicial resources. Okay? And, ah---this will probably be the fourth time that a judicial officer is going to make a determination that your claims are groundless, frivolous, and vexatious. Now, without question, you're gonna hit with, you know, twenty, thirty thousand dollars in attorney's fees in this case, because I've previously made a determination that these claims again are groundless, frivolous, vexatious, and they're just simply interposed to harass and annoy. But yet, you just keep doing it, and I'm trying to figure out what your motivation is, because there's gonna come a point, and it's gonna be in about five minutes, when I'm going to enjoin you from further filing any additional lawsuits. And I have the authority to do that, and you can do the legal research; you're pretty good at that. Ah, unless, of course, you certify you have a licensed Colorado attorney review your pleadings and they certify that they do not lack substantial justification.

Again, there is really no reason for this to continue. My understanding is, all you've got to do is fill out a darn form down at D.M.V. and this is

done. But yet, you persist, ah---and now you've put yourself in a position where I understand you're gonna appeal the dismissal here...you're gonna appeal the award of attorney's fees. Don't you have something better to do?

MR. SALAZAR: Well, ah---am I permitted to respond to Mr....ah, Judge Moss's order?

THE COURT: Absolutely. Yeah. I...

MR. SALAZAR: Oh, okay.

THE COURT: ...no, I'm not gonna...

MR. SALAZAR: I was...I took it like I can't file anything else anymore.

THE COURT: No. No, no, no. It didn't---we'll finish up the next lawsuit, but I'm telling you, it's looking a lot like all the other lawsuits, and they've been dismissed, and I don't know if any fees were awarded in the other jurisdictions, but, ah---in large part, that's what drove the bus here for me. I compared the---the lawsuits and the issues, and the allegations, and it just, ah---it's just the same song on a different day. And several judicial officers and an appellate panel at the Court of Appeals, said, ah---no, these claims don't have any justification. They do----and, but yet we just keep going on with this stuff, and now you've got

yourself in a pickle because, ah---you're gonna have---I'm—I mean, I'm going to award fees, given my previous determination. And then, ah---you know, the next thing that's gonna happen, they're gonna try to garnish, and I don't know---I don't know if you're, ah---retired, Social Security, anything...if that's gonna force you into bankruptcy, whatever the case may be, but...I'm just trying to figure out what's your motivation to continue with this. (pause) And, I mean, do you have an unlimited supply of funds that, if a judge just keeps awarding fees against you, you're just gonna gladly pay them? I mean, at some point, don't you think that this should end?

MR. SALAZAR: (pause) Well, yeah.

THE COURT: I mean, you understand that the only impediment to getting the title is to fill out the D.M.V. form? You understand that, right? (pause) Or you don't understand that?

MR. SALAZAR: Well, respectfully, I disagree. But, I understand what you're telling me.

THE COURT: Yeah, I just think it---you might want to cut your losses at some point. Don't you think that's a wise thing to do? (pause) Because the new lawsuit---it pretty much mirrors what we did here and what was done in, I think, Jefferson County, and I forget the other jurisdiction.

CLERK: It was Jeffco.

THE COURT: Jeffco?

CLERK: Yes.

THE COURT: Okay. You know, I certainly appreciate, ah---your zealous advocacy on behalf of yourself, but, you know, I've determined that the claims lack merit; the other judicial officers determined that the claims lacked merit; the Court of Appeals has done that. At some point, you've just got to accept...we're saying no, Mr. Salazar, you have no legal claims here. But yet, you keep filing lawsuits, which requires them to file answers, to incur attorney's fees. So, it's kind of like cutting off your nose to spite your face. You're---you're injuring your own economic well being here, and I'm trying to figure out why, when all you've got to do is just fill out the form. (pause) I'm...I mean, go fishing, do something.

MR. SALAZAR: Hm-mm.

THE COURT: Okay. Well, ah---obviously, you have the time to file a response to Judge Moss's order striking your complaint and telling you to file an amended complaint, which was dated 5/23. He gave you, as Lissa noted, thirty-five days to remedy those deficiencies that he perceived.

MR. SALAZAR: Ah, Your Honor?

THE COURT: Yes, Sir.

MR. SALAZAR: Ah, I---I wanted to---since I did not get the order until May 30th, I wanted...

THE COURT: Do you want additional time to respond?

MR. SALAZAR: Yes.

THE COURT: Okay. Well, tell me how much---tell me when you want to file your response. That's fine.

MR. SALAZAR: Ah, maybe between, like, July 3rd and July 12th...somewhere in there?

THE COURT: How about---how about July---ah, how about if I give you till July 19th?

MR. SALAZAR: Oh. Thank you. That's very generous.

THE COURT: Okay. All right, so July 19th, you need to comply with Judge Moss's order of 5/23, which struck the most recent complaint, which was filed on 5/16/19. So, please, I---you know, ah---this 2019-CV-60, it's---it's here. But, I'm telling you

right now, ah---I am enjoining you from filing any new lawsuits unless you consult with a Colorado lawyer and he or she certifies that the claims are substantially justified. There's case law on this. You're pretty good at---at doing legal research, so you'll have no trouble finding it.

MR. SALAZAR: Ah, Your Honor....

THE COURT: Yes, Sir.

MR. SALAZAR: ...what does enjoin mean?

THE COURT: It means you are prohibited from filing any more lawsuits in Adams County, unless you have a licensed Colorado lawyer certify to the Court that the claims, ah---are with merit...okay?

MR. SALAZAR: Okay.

THE COURT: So, that's something that would have to happen. And, the lawyer would have to actually certify it. He or she would submit to me an affidavit saying they've reviewed Mr. Salazar's pleadings, and based upon the factual allegations and the law, and obviously, you would need to have to explain to them the two other lawsuits, this lawsuit, what happened in the Court of Appeals, and then if they certify that the claims are with merit, then, ah---we will be happy to receive your filing. If there is no such certification, you may not

file any additional lawsuits. Okay?

MR. SALAZAR: Thank you, Your Honor.

THE COURT: Anything else, Mr. Salazar?

MR. SALAZAR: Ah, no, Your Honor. Thank you.

THE COURT: Okay. Counsel, anything else?

MR. LAMB: Nothing further, Your Honor. Thank you.

THE COURT: All right. Thank you. Perhaps you folks might want to talk with Mr. Salazar.

MR. LAMB: Thank you.

THE COURT: All right, folks. Take care.

(Whereupon the proceedings were concluded.)

CERTIFICATE

The above and foregoing is a complete transcription of the electronic recording taken at the time and place above set forth.

GEORGIA C. WAGNER

8-22-1

U.S. CONSTITUTION AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

42 U.S. CODE § 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

FEDERAL RULES OF CIVIL PROCEDURE
41(a)

(a) Voluntary Dismissal.

(1) *By the Plaintiff.*

(A) *Without a Court Order.* Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or

(ii) a stipulation of dismissal signed by all parties who have appeared.

(B) *Effect.* Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal-or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

COLORADO RULES OF CIVIL PROCEDURE
41(a)

(a) Voluntary Dismissal: Effect Thereof.

(1) By Plaintiff; By Stipulation. Subject to the provisions of Rule 23(e), of Rule 66, and of any statute, an action may be dismissed by the plaintiff without order of court upon payment of costs: (A) By filing a notice of dismissal at any time before filing or service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs; or (B) by filing a stipulation of dismissal signed by all parties who have appeared in the action or by their attorneys. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once previously dismissed in any court an action based on or including the same claim.

COLORADO REVISED STATUTES
§ 42-6-120(1)
SECURITY INTERESTS UPON VEHICLES

A mortgage or refinancing of a mortgage intended by the parties to the mortgage or refinancing to encumber or create a lien on a motor vehicle, or to be perfected as a valid lien against the rights of third persons, purchasers for value without notice, mortgagees, or creditors of the owner, must be filed for public record. The department or authorized agent shall note the fact of filing on the owner's certificate of title or bill of sale substantially in the manner provided in section 42-6-121.

COLORADO REVISED STATUTES**§ 42-6-121(1)****FILING OF MORTGAGE – RULES**

The holder of a chattel mortgage on a motor or off-highway vehicle desiring to secure the rights provided for in this part 1 and to have the existence of the mortgage and the fact of the filing of the mortgage for public record noted in the filing of the certificate of title to the encumbered vehicle must present the signed original or signed duplicate of the mortgage or copy of the mortgage, certified by the holder of the mortgage or the holder's agent to be a true copy of the signed original mortgage, and the certificate of title or application for certificate of title to the vehicle encumbered to the authorized agent of the director in the county or city and county in which the mortgagor of the vehicle resides or where the vehicle is located. The holder may file either with paper documents or electronically. The mortgage or refinancing of a loan secured by a mortgage must state the name and address of the debtor; the name and address of the mortgagee or name of the mortgagee's assignee; the make, vehicle identification number, and year of manufacture of the mortgaged vehicle; and the date and amount of the loan secured by the mortgage.