

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

**MAR 08 2018**

**JEFFREY P. COLWELL**  
CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No: 17-cv-00884-CMA-STV

CHAYCE AARON ANDERSON

Plaintiff,

v.

CARA BOXBERGER, in her individual capacity,  
JASON SHUTTERS, in his individual capacity,

Defendants.

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MOTION TO CONTEST TIME OF SERVICE OF RECOMMENDATION AND  
ORDER, CONTEST DENIAL OF EXTENSION, & CONTEST TIME OF U.S.  
D.C.'s FILING OF MR. ANDERSON'S FORMAL OPPOSITION.

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IN ORDER TO COMPLY with Judge Arguello's Civil Practice  
Standard 7.1 A(a), "all requests for the Court to take any action,  
make any type of ruling, or provide any type of relief must be  
contained in a written motion." All communication with the  
U.S.D.C. will proceed now formally only in written motions.

This motion is meant to contest time of service of the  
Recommendation And Order. Time of Service to appointed  
"Pro Se" Counsel of Record was not served formally until January,  
26<sup>th</sup>, 2018. Service occurred in D.O.C. facility Arkansas  
Valley Correctional Facility (A.V.C.F.). The 14-Day tolling

period to file a formal objection automatically tolls on February 9<sup>th</sup>, 2018, without the need of an extension. This Court relies on a 14-Day window after the December 13<sup>th</sup>, 2017 date. This would toll on December 27<sup>th</sup>, 2017. Appointed Counsel of Record was not served during this window. No lawyer can be feasibly expected to properly respond to any Court Order when he does not receive a physical copy until 23 days after the adoption of the Order on 01/03/18, and 44 days after the Recommendation and Order was entered. This amounts to NO NOTICE. Claims were dismissed, Defendants released from lawsuit without notice to appointed Counsel of Record. The date of service is HEREBY contested to be 01/26/18, with a 14-Day window tolling on 02/09/18. Mr. Anderson's Formal Objection was formally Filed on 02/09/18, within the 14 Day window.

This motion is meant to further contest "Denial of Extension." The denial motion states, "Plaintiff only basis for requesting an extension is that he was not informed of the Recommendation until January 26<sup>th</sup>, 2018. The Court however finds that the Recommendation was properly and timely mailed to Plaintiff at the address that Plaintiff provided: Larimer County Detention Facility, 2405 Midpoint Drive, Fort Collins, CO 80525 (Doc. #62). It was returned as undeliverable on December 29, 2017. (Doc. # 65)." It was actually returned undeliverable on 01/16/18 (Doc. #68), not (Doc. #65). The denial motion further states, "Accordingly, it was Plaintiff's

responsibility to inform the court of any changes to his address. Yet, Plaintiff failed to do so in a timely manner and has not provided any justification for his failure to do so." The Court is relying on D.C. COLO. LCivRS.1(c): "Notice of change of name, mailing address, or telephone number of an unrepresented prisoner or party shall be filed not later than five days after the change." Plaintiff Chayce Aaron Anderson filed letters regarding facility transfers on 04/28/17 (Doc. #7), 05/11/17 (Doc. #10), 05/30/17 (Doc. #12), 06/06/17 (Doc. #13), 06/09/17 (Doc. #15), 07/18/17 (Doc. #24), 07/26/17 (Doc. #25), & 10/16/17 (Doc. #46). Doc. #24 should be date of letter of transfer to A.V.C.F., Doc. #25 should be a prior letter that documented lack of service of Babcock's Order. A Notice of Change of Address and letter was filed on 08/16/17 (Doc. #29). Additional Notices were filed on 08/30/17 (Doc. #35) and 01/18/18 (Doc. #67). Also review Reply Motion on 11/30/17 (Doc. #57). Specifically in response to Doc. #46, on 10/17/2017 (Doc. #47), the Court ordered "The Clerk of Court is directed to mail a copy of this Order to Plaintiff at both the Arkansas Valley Correctional Facility and the Larimer County Correctional Facility. [Sec #46]." The same language is used on 11/13/17 (Doc. #52); (Doc. #53), (Doc. #54), used again on 11/14/17 (Doc. #55). Mr. Anderson's permanent D.O.C. placement has remained A.V.C.F. during all of this. Mr. Anderson has only been transferred to L.C.D.C. on writs. The Court was aware of multiple writ transfers prior to the Dec. 13<sup>th</sup>,

2017 Filing... The Court had prior knowledge of Mr. Anderson's D.O.C. placement, which never changed, and prior knowledge of writ Transfers, Pending writ Transfers, etc. It is common knowledge that D.O.C. writ Transfers usually last a week. Doc. #'s 52, 53, 54, 55 all show knowledge of the Court's need to serve Court Orders at both A.V.C.F. & L.C.D.C. Yet the 12/13/17 Filing was not mailed to both facilities, but rather only L.C.D.C. Mr. Anderson's last 2 writ Transfers occurred on 01/09/18, and 01/29/18. A notice was filed on 01/18/18, and a letter was filed on 01/31/18. The 1<sup>st</sup> was a 9 day gap, which Mr. Anderson was compiling 57.5 pgs of legal writing for a criminal sentencing hearing. The 2<sup>nd</sup> was a 2 day gap. Mr. Anderson has ~~continuously~~ continuously notified the Court within 5 day windows to the best of his ability. All letters, notices, motions have in "good faith" attempted to set out or project future transfers. The Court is basing the denial on a "Pro Se" letter only. The denial does not address the grounds set forth in more detail in the wording of the actual Formal Objection Motion. No response has been received by Mr. Anderson. The purpose of the "Pro Se" letter was to provide a time stamped cover page, or actual time of service, and to simply notify the Court of the impending Formal Objection to come... This was done for the scheduling convenience of the Court. Any denial should be connected to the formal motion, not the "Pro

se" letter, which is not the case. As well, the Formal Objection was filed before the denial on the 02/09/18. The denial on 02/14/18. The merits of the motion should be addressed, rather than side-stepping the motion.

This motion is meant to further contest the U.S.D.C. Filing Time of Mr. Anderson's Formal Opposition Motion. This was filed by the Court on 02/22/18. This motion was submitted to L.C.D.C. Staff on Sunday, 02/11/18. This motion should be mailed by Monday, 02/12/18, with ample time to be filed by the Thursday, 02/15/18 Deadline. My Formal Objection motion was mailed by 02/06/18, and filed on 02/09/18... There was an undue 7-day delay in the filing of my Formal Opposition Motion. This may have been caused by February 19<sup>th</sup> - President's Day, and all Courthouses being closed, or by the fault of L.C.D.C. Staff, U.S.D.C. staff, or Post-Office Staff. This formally contests that the Opposition motion should have been filed by 02/15/18 to meet the 15<sup>th</sup> Deadline. The "Motion To Dismiss" should not be deemed "unopposed." This failure of filing was not attributable to any fault or failure on Mr. Anderson's part. This motion is submitted retrospectively, and in "good faith," in an attempt to prevent any erroneous rulings before they happen.

Outifully and Humbily Submitted This Day 3<sup>rd</sup> of This Month March, 2018.

Sincerely,

 03/03/18

Chayce Aaron Anderson DOC#175290  
 Larimer County Jail  
 2405 Midpoint Drive  
 Fort Collins, CO 80525  
 Arkansas Valley Correctional Facility  
 12750 Hwy 76., at Lane 13  
 Ordway, CO 81034.  
 "Pro Se" Attorney of Record.