

<p>District Court, Larimer County, Colorado 201 LaPorte Avenue, Suite 100 Fort Collins, CO 80521 PHONE: (970) 494-3500</p> <hr/> <p>Plaintiff: Eric Sutherland</p> <p>v.</p> <p>Defendants: The City of Fort Collins; Steve Miller, in his capacity as the Larimer County Assessor; Irene Josey, in her capacity as the Larimer County Treasurer; The Timnath Development Authority; and Compass Mortgage Corporation.</p>	<p>DATE FILED: July 12, 2018 CASE NUMBER: 2018CV149</p> <hr/> <p>▲ FOR COURT USE ▲</p> <hr/> <p>Case No.: 18CV149 Courtroom: 5B</p>
<p>ORDER REGARDING MOTION FOR INJUNCTIVE RELIEF</p>	

Defendants Timnath Development Authority (“TDA”) and Compass Mortgage Corporation (“Compass”) filed this Motion for Injunctive Relief pursuant to Rule 65(g) seeking to have Plaintiff Eric Sutherland enjoined from appearing or filing as a *pro se* claimant in this or any other action before a Larimer County Court. The Court has considered the motion, Plaintiff’s Reply, and relevant law and finds as follows:

Defendant TDA and Compass assert that Plaintiff’s numerous lawsuits filed in District Court are frivolous and vexatious. They seek to enjoin Plaintiff from appearing *pro se* on the following grounds:

- (1) Plaintiff’s litigation conduct constitutes an abuse of process under Colorado law;
- (2) Plaintiff’s litigation conduct is similar to abusive conduct enjoined in Colorado courts in the past in both volume and purpose; and
- (3) Plaintiff’s litigation conduct is at least as harmful as conduct enjoined by Colorado courts in the past, and that harm is widely dispersed.

As a threshold matter, the Court will not rule on matters outside the current case. Defendants have filed a separate case against Plaintiff seeking injunctive relief on the same grounds. That pending case, 2018CV30567, will address the issues raised by Defendants seeking to enjoin Plaintiff from filing as a *pro se* litigant in any case filed in Larimer County.

Defendants TDA and Compass also filed counterclaims for Abuse of Process and Intentional Interference with Contractual Relations. Plaintiff filed a Reply, titled Plaintiff's Answer to Counter Claims on June 26, 2018. Those counterclaims are still pending and addressed the same issues as in the Motion.

Relief sought by Defendants under this Motion, if granted, would force Plaintiff either to retain an attorney against Defendants' counterclaims in order to defend himself. The Court will not, as a matter of due process, force Plaintiff to hire an attorney to defend against Defendants' counterclaims or concede the claims. Clearly, the Defendants believe their claims to be meritorious and will result in the award of damages.

Likewise, the Court will not force Plaintiff to hire an attorney for other *pending* matters, such as any request for attorney's fees and costs by Defendants related to their Motion to Dismiss, which was granted on July 10, 2018.

Regarding any future filings, amendments, and motions not related to pending events, the Court holds in abeyance TDA and Compass' Motion until at least after the other Defendants, the City of Fort Collins, Steve Miller, and Irene Josey, file answers to the complaint. The Court will determine whether Plaintiff's conduct rises to a level of abuse that warrants enjoining him from submitting future *pro se* filings at an appropriate time.

Certainly, Defendants are free to seek attorney's fees and costs pursuant to C.R.S. § 13-17-102(6), which holds that a party that appears without an attorney may be assessed fees and costs if "the court finds that the party clearly knew or reasonably should have known that his action or defense, or any part thereof, was substantially frivolous, substantially groundless, or substantially vexatious."

Dated: July 12, 2018.

BY THE COURT:



Gregory M. Lammons
District Court Judge