

District Court, Larimer County, State of Colorado 201 LaPorte Avenue, Suite 100 Fort Collins, CO 80521-2761 (970) 494-3500	DATE FILED: May 10, 2019 CASE NUMBER: 2018CV149  <p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<b>Plaintiff:</b> Eric Sutherland  v.  <b>Defendants:</b> The City of Fort Collins, et. al.	Case Number: 2018CV149  Courtroom: 5B
<b>ORDER GRANTING UNOPPOSED MOTION TO WITHDRAW</b>	

Plaintiff filed an Unopposed Motion to Withdraw a Rule 59 motion on May 6, 2019. Having considered the motion, response, reply, and applicable law, the Court finds and orders as follows.

First, the Court notes that Plaintiff filed a Notice of Appeal on May 6, 2019. A notice of appeal generally divests the trial court of jurisdiction. C.A.R 3. However, the trial court retains jurisdiction over matters that are “not relative to and do not affect the judgment on appeal”. *Musick v. Woznicki*, 136 P.3d 244, 248 (Colo. 2006). This unopposed motion is not relative to and will not affect the judgment on appeal. Therefore, the Court has jurisdiction to rule on the unopposed motion.

Plaintiff asks the Court to withdraw his Rule 59 Motion concerning the Court’s Order granting Fort Collins’s Motion for Attorney Fees and Bill of Costs. Fort Collins does not oppose the withdrawal of this motion. Therefore, the Court grants the motion. Plaintiff’s Rule 59 motion regarding the Court’s Order granting Fort Collins’s Motion for Attorney Fees and Bill of Costs is withdrawn.

Also included in his Unopposed Motion is Plaintiff's request for the Court to consider the argument in the withdrawn motion. As this motion is now withdrawn, the Court will not consider the argument contained in the withdrawn motion.

Dated: May 10, 2019.

BY THE COURT:



Gregory M. Lammons  
District Court Judge