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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 MORENO et al.,

No. C 05-4432 CRB

12 Plaintiff,

**ORDER DENYING MOTION FOR
SANCTIONS AND REFERRING
MATTER TO STANDING
COMMITTEE ON PROFESSIONAL
CONDUCT**

13 v.

14 AUTOZONE, INC,

15 Defendant.
16 _____/

17 Now pending before this Court is Defendant's motion for sanctions against plaintiffs'
18 former counsel, Bailey Pinney, P.C. Because this issue would not benefit from a hearing, the
19 hearing currently scheduled for January 8, 2010, is hereby VACATED.

20 This Court concludes that Defendant has not carried the high burden necessary to
21 justify ordering Bailey Pinney to pay its attorneys' fees. Title 28 of the United States Code
22 section 1927 authorizes a court to order payment of fees where an attorney "unreasonably
23 and vexatiously" multiplies the proceedings. After reviewing the evidence submitted by
24 Autozone, this Court cannot conclude that former counsel's actions "unreasonably and
25 vexatiously" multiplied the proceedings. Therefore Defendant's motion for sanctions is
26 DENIED.

27 However, this Court remains troubled by the conduct that led to the disqualification of
28 Bailey Pinney as counsel in this matter. The decision not to impose fees in no way reflects

1 this Court's judgment that this conduct was acceptable. On the contrary, this Court has
2 determined that the matter should be considered further by this Court's Standing Committee
3 on Professional Conduct. Therefore, as authorized by Local Rule 11-6(a)(4), the matter is
4 hereby referred to the Standing Committee.

5 **IT IS SO ORDERED.**

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8 Dated: December 29, 2009



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE