

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 04-cv-00438-CMA-MEH

JOSEPH M. ALIOTO,

Plaintiff,

v.

TIMOTNY C. HOILES,

Defendant.

ORDER SETTING STATUS CONFERENCE

This matter is before the Court upon the case's reassignment to Judge Christine M. Arguello (Doc. # 557).

The Court has conducted a limited review of the record, including the October 1, 2009 Joint Status Report (Doc. # 555) and the Tenth Circuit's August 13 decision (Doc # 552) overruling the district court's determination that the contingent attorney fee agreement (Fee Agreement) at issue failed to comply with Sec. 6147(a)(3) of the California Business and Professions Code. Based on the Court's review, the Court has identified the following issues that appear ripe for summary judgment. To the extent that the following issues were dealt with in prior summary judgment motions, the Court believes that the Tenth Circuit's decision renders these issues ripe for renewed consideration.

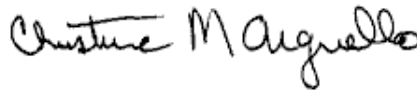
1. Issues for Summary Judgment Whether the Fee Agreement is voidable as a matter of law Construction of the Fee Agreement's terms.

2. Whether California law bars Plaintiff's fraud and misrepresentation claims.

The Court also directs the parties to prepare a Joint Status Report regarding the status of certain funds that were placed in escrow after Freedom's recapitalization and which were the subject of Plaintiff's "Motion to Protect Escrow" before the Tenth Circuit. The parties are directed to appear for a Status Conference on **November 2, 2009, at 11:00 a.m.** The parties are also directed to meet and confer in advance of the status conference to agree upon a briefing schedule. The parties shall present the briefing schedule and their Joint Status Report concerning the funds in escrow at the status conference.

DATED: October 9, 2009.

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge