

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 08-cv-02776-MSK-BNB

MICHAEL J. NIEWOONDER,

Plaintiff,

v.

ROCKY MOUNTAIN HOSPITAL AND MEDICAL SERVICE, INC.,

Defendant.

ORDER

Attached to this order is a copy of several e-mails (the “e-mails”) sent directly to my chambers by the plaintiff on February 18, 2009. The e-mails are improper in a number of ways.

First, the e-mails are improper ex parte communications. Ex parte communications are prohibited by local rule of practice 77.2, D.C.COLO.LCivR, which provides:

In the absence of previous authorization, no attorney or party to any proceeding shall send letters, pleadings or other papers or copies directly to a judicial officer. Unless otherwise instructed, all matters to be called to a judicial officer’s attention shall be submitted through the clerk, with copies served on all other parties or their attorneys.

Second, there is no evidence that copies of the e-mails were served on opposing counsel as required by Rules 5 (a) and (d), Fed. R. Civ. P.

Third, the e-mails do not comply with the formatting requirements of Rule 7(b), Fed. R. Civ. P., and local rule of practice 10.1, D.C.COLO.LCivR.

IT IS ORDERED that the e-mails are STRICKEN.

IT IS FURTHER ORDERED that the plaintiff shall cease sending communications directly to my chambers unless otherwise instructed by me.

IT IS FURTHER ORDERED that in the future all applications to the court must be submitted in the form of a motion and in compliance with the Federal Rules of Civil Procedure, local rules of practice, and this order.

IT IS FURTHER ORDERED that failure to comply with this order may result in the imposition of sanctions, including dismissal of the case.

Dated February 24, 2009.

BY THE COURT:


United States Magistrate Judge



Michael Niewoonder
<michaeljn@yahoo.com>

02/18/2009 05:12 PM

To Boland_Chambers@cod.uscourts.gov

cc

bcc

Subject Fw: 08-cv-02776-MSK-BNB; NOPHI

I got your telephone message. Thank you so much.
It's difficult for me to be on the phone most of the time
during the day. I will schedule time to participate on
March 6.

Sincerely,

Michael Niewoonder
720-320-0493

----- Forwarded Message -----

From: Michael Niewoonder <michaeljn@yahoo.com>
To: Boland_Chambers@cod.uscourts.gov
Sent: Wednesday, February 18, 2009 6:25:23 PM
Subject: Fw: 08-cv-02776-MSK-BNB; NOPHI

Dear Judge Boland,

I have requested (attached email) that the scheduling meeting be
rescheduled, but I have not received any response. I am concerned
about missing communications. Are you receiving my email?
Please advise.

Best Regards,

Michael Niewoonder
720-320-0493

----- Forwarded Message -----

From: Michael Niewoonder <michaeljn@yahoo.com>
To: Boland_Chambers@cod.uscourts.gov
Sent: Wednesday, February 18, 2009 1:37:27 PM
Subject: Fw: 08-cv-02776-MSK-BNB; NOPHI

Dear Judge Boland,

I sent a request earlier this week asking if the scheduling meeting
could be rescheduled until after the tax season, and I have not
received a response yet. Originally, the meeting was set to take
place tomorrow morning, so I just want to touch base with you
to make sure that I have not missed a communication from you.

Best Regards,

Michael Niewoonder
720-320-0493

----- Forwarded Message -----

From: Michael Niewoonder <michaeljn@yahoo.com>

To: Boland_Chambers@cod.uscourts.gov
Sent: Monday, February 16, 2009 5:45:42 PM
Subject: 08-cv-02776-MSK-BNB; NOPHI

Dear Judge Boland,

I apologize for this late communication. I have been communicating over the last several weeks with defense counsel Steve Fitzsimmons, and I was under the impression that we were moving towards a settlement until last Thursday evening ((02/12/2009) when it became apparent that I was mistaken.

In addition, I am presently in Michigan helping my sister with her tax business. As you're aware this is the tax season, and I thought that my schedule would allow me to participate. It is not feasible for me to take enough time off to travel to Colorado and attend the meeting.

Due to lack of sufficient progress in settlement talks and scheduling difficulties I am requesting to please adjourn the scheduling meeting until late April or early May. I have communicated this to Mr. Fitzsimmons, but have not received a response from him yet.

Please adjourn our scheduling meeting until after April 16, 2009. Again, please forgive the lateness of this communication.

Best Regards,

Michael J. Niewoonder
720-320-0493



Michael Niewoonder
<michaeljn@yahoo.com>

02/18/2009 11:37 AM

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<michaeljn@yahoo.com>

02/18/2009 04:25 PM

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