

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. **11-cv-03195-JLK**

24 HOUR FITNESS, USA, INC., a California corporation d/b/a 24 HOUR FITNESS,

Plaintiff,

v.

BRIAN ABEYTA,

Defendant.

Civil Action No. **11-cv-3196-JLK**

24 HOUR FITNESS, USA, INC., a California corporation d/b/a 24 HOUR FITNESS,

Plaintiff,

v.

ERIN ADDESSO,

Defendant.

Civil Action No. **11-cv-3197-JLK**

24 HOUR FITNESS, USA, INC., a California corporation d/b/a 24 HOUR FITNESS,

Plaintiff,

v.

OSKAR BERCEDONI,

Defendant.

Civil Action No. **11-cv-3199-JLK**

24 HOUR FITNESS, USA, INC., a California corporation d/b/a 24 HOUR FITNESS,

Plaintiff,

v.

AARON BUTLER,

Defendant.

Civil Action No. **11-cv-3200-JLK**

24 HOUR FITNESS, USA, INC., a California corporation d/b/a 24 HOUR FITNESS,

Plaintiff,

v.

ERIC CONRY,

Defendant.

September 24, 2012 Order is revised to delete the finding that the Response to the Motion was untimely filed.

Second, though the Response was indeed timely filed, its content, like that of the instant motion, is unpersuasive. Accordingly, the Order awarding attorney fees stands, both as against the firm and as against Mr. Kirkpatrick individually. Quite simply, Mr. Kirkpatrick is counsel of record in this case, and, as such, he is obligated to comply with the Colorado Rules of Professional Conduct.¹ *See* D.C. Colo. L.CivR 83.4.

Third, the Order applies only to the 28 cases pending in this court. Courts elsewhere can take whatever action or inaction each deems appropriate. The only instance in which actions taken in other courts would warrant sanctions in this court is if such actions were taken in violation of an order of this court. No such order was entered in this case. With the revision to show the Response as timely filed, and adding the foregoing clarification, the September 24, 2012 Order stands.

Dated: November 2, 2012

BY THE COURT:

/s/John L. Kane
Senior U.S. District Court Judge

¹ Mr. Kirkpatrick is especially advised to review Colorado Rule of Professional Conduct 3.2 and its comment, duplicated below for counsel's convenience.

RULE 3.2. EXPEDITING LITIGATION

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

COMMENT

[1] Dilatory practices bring the administration of justice into disrepute. Although there will be occasions when a lawyer may properly seek a postponement for personal reasons, it is not proper for a lawyer to routinely fail to expedite litigation solely for the convenience of the advocates. Nor will a failure to expedite be reasonable if done for the purpose of frustrating an opposing party's attempt to obtain rightful redress or repose. It is not a justification that similar conduct is often tolerated by the bench and bar. The question is whether a competent lawyer acting in good faith would regard the course of action as having some substantial purpose other than delay. Realizing financial or other benefit from otherwise improper delay in litigation is not a legitimate interest of the client.