

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Wiley Y. Daniel

Civil Action No. 13-cv-01511-WYD-BNB

PORT-A-POUR, INC., a Colorado corporation,

Plaintiff,

v.

PEAK INNOVATIONS, INC., a Colorado corporation, and
MARK E. NELSON, an individual,

Defendants.

ORDER

THIS MATTER is before the Court on Plaintiff's Motion for an Order of Civil Contempt Against Peak Innovations, Inc., Mark Nelson, and Drew Nelson filed January 8, 2014. This motion is stricken as it does not comply with the requirements of D.C.COLO.LCivR 7.1(a).

Local Rule 7.1(a) requires a duty to confer "or make reasonable good faith efforts to confer . . . to resolve any disputed matter." It also requires that the moving party "describe in the motion, or in a certificate attached to the motion, the specific efforts to fulfill this duty." *Id.* While Plaintiff's motion contains a Rule 7.1(a) certification stating that Plaintiff's counsel "has communicated with defendants' counsel regarding this matter prior to filing this motion" (Pl.'s Mot. at 2), this does not describe the specific efforts taken to confer to resolve the matter in the motion. I find this failure particularly egregious as to the motion at issue given the seriousness of the relief sought by

Plaintiff, *i.e.*, an order of civil contempt, attorney's fees and costs, and civil damages of \$160,000. Moreover, this is not the first time Plaintiff failed to comply with Local Rule 7.1(a). As noted in my Order of July 14, 2014, Plaintiff failed to comply with the rule in connection with its Request for Judicial Notice and Authentication filed in June 2014, and I warned that Plaintiff must ensure compliance in the future with Rule 7.1(a) "or risk the striking of its motions." (ECF No. 133, at 18 n. 2.)

Based on the foregoing, Plaintiff's Motion for an Order of Civil Contempt Against Peak Innovations, Inc., Mark Nelson, and Drew Nelson (ECF No. 176) is **STRICKEN**. This is without prejudice to Plaintiff's ability to refile the motion, but the motion must contain a proper Rule 7.1(a) certification or it will be stricken **with** prejudice.

Dated: January 14, 2015

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Senior United States District Judge