

DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, Colorado 80401 Telephone: (303) 271-6190	▲ COURT USE ONLY ▲ <hr/> trial court case No. 99 DR 3717 Div. 9 / Jack Berryhill, judge
In re the Marriage of: Petitioner: CHRISTY RYAN and Respondent: SEAN HARRINGTON	
Sean L Harrington P.O. Box 351855 Westminster, CO 80035	
FATHER’S REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION	

Sean L. Harrington, father, submits the within REPLY IN SUPPORT OF HIS MOTION FOR RECONSIDERATION, and would show unto the Court the following:

1. Non-party Fyfe takes issue with the fact that father has requested this Court vacate its February 24, 2009 Order in its entirety, but that he has allegedly failed to address the minutia of the Order’s merits (as to Fyfe). As noted in the Rule 59 Motion, father has already previously asserted in cogent detail the very same legal arguments and undisputed facts that then warranted the relief father sought and, which today require the Order be vacated. To restate the arguments is to waste time and judicial resources.¹ Further, this Court has the authority on its own initiative to reconsider the Order under C.R.C.P. 59(c), and father urges the Court to do so. *See Callaham v. Slavsky*, 153 Colo. 291, 385 P.2d 674 (1963) (Trial court may grant "new trial" even if party's Rule 59 motion is insufficient). If the Court chooses not to vacate the Order, father intends to appeal, which appeal will not raise any new issues not already thoroughly briefed.

2. Fyfe next points out that a *pro se* party is restricted to the same rules of procedure, discovery, and evidence as required of those licensed to practice law. The point is not

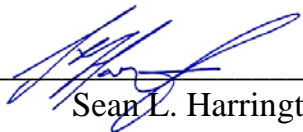
¹ These arguments included explicating (in detail) what the appeals court’s remand required; the difference between a limited remand and general remand; that the appeals court deemed the issue of sanctions as not moot; the Rule 24 requirement of non-parties; and, *inter alia*, the trial court’s role as the only entity in this State as having any authority over CFIs. These arguments were reiterated in duplicate and triplicate throughout various pleadings. If the Court is not inclined to process those arguments or if the Court did process them, but was not persuaded thereby, then repeating them for a third or fourth time in the instant Motion would run afoul of the futility doctrine. *See Taylor v. Canterbury*, 92 P.3d 961, 967 (Colo. 2004) (*en banc*) (“[T]he law does not require a futile act.”)

well taken: First, father has not violated any such Rules. Second, according to his Certificate of Delivery, counsel for Mr. Fyfe has failed to serve a copy on the only other true-party to this case (Ms. Ryan), as required by C.R.C.P. 5. Moreover, it does appear from the record that this Court is not inclined to apply the Rules to members of the bar: Wilson's Response [that this Court awarded fees for] was filed forty-two days after father's Motion for Declaratory Judgment, which is approximately three times the time permitted for a response under the Rules.²

3. Finally, Fyfe takes issue that father's Rule 59 Motion for post-trial relief (amendments of findings and amendment of the judgment) was not supported by affidavit. Father's Rule 59 Motion was filed under subsection (a)(3) and (4); and (d)(6). The Affidavit requirement is only required for a Motion for New Trial under Rule 59(d)(1) through (4) and father has not claimed misconduct of the jury, accident or surprise, or newly discovered evidence.

WHEREFORE, for the foregoing reasons and based on the foregoing authorities, father requests that the Court's February 24, 2009 Order be vacated in all respects and that the Court set a hearing on the matter of Father's Contempt Motion against Madeline Wilson.

Submitted this 18th day of March, 2009.


Sean L. Harrington

CERTIFICATE OF MAILING

I hereby certify that on the 19th day of March, 2009, a true and accurate copy of the foregoing *REPLY* has been mailed, first class postage prepaid, to the following:

First Judicial District Court
Division 9
100 Jefferson County Parkway
Golden, CO 80401

and by electronic mail to: David H. Yun (DYun@jalegal.com) and Brett N. Huff (bhuff@huffandleslie.com) and Christy C. Ryan (cryan72@msn.com).

² Although father pointed this out to this Court in his Reply, the matter was not addressed in the February 24, 2009 Order.