

<b>DISTRICT COURT, JEFFERSON COUNTY, COLORADO</b> 100 Jefferson County Parkway Golden, Colorado 80401 Telephone: (303) 271-6190	2009 MAR 27 PM 9:39  FILED COMBINED COURT JEFFERSON COUNTY, CO.  <hr/> <b>▲ COURT USE ONLY ▲</b> <hr/> trial court case No. 99 DR 3717  Chief Judge's Division
In re the Marriage of: <b>Petitioner:</b> CHRISTY RYAN and <b>Respondent:</b> SEAN HARRINGTON	
Sean L Harrington P.O. Box 351855 Westminster, CO 80035	
<b>FATHER'S OBJECTION TO WILSON'S UNTIMELY BILL OF COSTS</b>	

Sean L. Harrington submits the within OBJECTION and would show unto the Court the following:

1. Rule 121 § 1-22(2)(b) provides, in pertinent part: "Any party seeking attorney fees under this practice standard shall file and serve a motion for attorney fees within 15 days of entry of judgment or such greater time as the court may allow." Opposing counsel has not sought leave from this Court to file out of time, yet has taken the liberty to file her bill of costs 27 days after the entry of judgment. "Parties litigant have a right to rely upon the rules as written. It is the duty of trial courts, as well as our duty, to enforce them when timely objection is made by a party to litigation." *Capitol Indus. Bank v. Strain*, 442 P.2d 187, 188 (1968). The Bill of costs is untimely and should be denied for counsel's cavalier disregard of the procedural Rules.
  
2. In addition, Wilson's pleadings—including her Bill of Costs—have not been served on Ms. Ryan (the only other true party to this case). The Bill of Costs should be denied for failure to comply with C.R.C.P. Rule 5. Attorneys licensed to practice in the courts of this state are bound by the same rules of evidence and procedures as *pro se* litigants. *Yadon v. Southward*, 64 P.3d 909, 912 (Colo. App. 2002); *Loomis v. Seely*, 677 P.2d 400, 402 (Colo. App. 1983).
  
3. This Court's February 24, 2009 Order awarded Wilson "reasonable attorney fees and related costs for having to respond to and defend against those motions." *Id.* at 11. The motions specifically denominated by the Court were "father's motions for sanctions and punitive contempt against attorney Wilson . . . and . . . Wilson's motion to strike." *Id.*

4. Wilson never responded to father's Motions for Contempt, because no citation was issued (and, therefore, she was not served). This leaves only Wilson's "Motion to Strike," which was denied as moot, and father's Motion for Declaratory Judgment (which included his request for sanctions).

5. In contrast, the billing records in support of Wilson's Bill of Costs contain a great many activities that were not authorized by the Court and which are improper. The following is a non-exhaustive list of such activities:

- Settlement negotiations with father and his Texas attorney about dismissing one or more proceedings in Texas (and requesting that father redact references to Wilson from his *KnowYourCourts.com* Web site).
- Communications with the Colorado Attorney Regulation Counsel
- Conferences with and memoranda to the attorney of Bill Fyfe, the court's appointee, to discuss legal strategies against father
- Conferences and memoranda to and from an attorney "representing the judicial defendants" and "regarding [Judge Tidball's] defense strategy."
- Discussions with client about Texas proceedings
- Drafting a Motion for Extension of Time to facilitate Mr. Huff's vacation plans
- Travel to the courthouse to review the court's file, when these documents are already available via LexisNexis File-and-Serve and online (at no cost) at: <http://www.knowyourcourts.com/Harrington/99DR3717.htm><sup>1</sup>
- Reviewing and responding to objections to Wilson's failure to file a Rule 24 Motion to Intervene & Huff's Entry of Appearance thereon.
- Research for arguments that were never presented, because Huff realized they had no merit. They include Rule 11 sanctions applicability to *pro se* parties, inadvertent disclosure of attorney-client privileged materials, *inter alia*.
- Telephone calls from client regarding her intent to withdraw from representation of Christy C. Ryan
- Review Motions and Responses for expanded media coverage (originally filed by third-party) which father had no involvement whatever
- Telephone calls to/from the Court
- Review and response to father's Rule 59 Motion.

6. According to this Court's February 24, 2009 Order, "The starting point for determining reasonableness is the 'lodestar' - the number of hours spent, how they were spent, and the applicable hourly rate." *Id.* at 11. [underline emphasis added]. Each and all of the foregoing activities far exceeds the scope of the trial court's findings under § 13-17-201 and its authorization for an attorney fee award.

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<sup>1</sup> Even the division clerk of this Court and Fyfe's attorney, both, have conceded that they use the *KnowYourCourts.com* Web site to browse documents relating to this case because of its ease of use.

*See Atmel Corp. v. Vitesse Semiconductor Corp.*, 160 P.3d 347, 350 (Colo. App., 2007) (no entitlement for fees incurred in portions of the case unrelated to the attorney fee award).


7. Father requests a hearing on the reasonableness of fees. *See City of Littleton v. People*, 832 P.2d 985 (Colo. App. 1991) (“If a party disputes the amount of a claim for attorney fees that party is entitled to a hearing on the claim”). Father requests that he be permitted to attend by telephone, as the Court has no need to ascertain father’s credibility by his demeanor, because the burden of establishing the reasonableness of the asserted fees falls to Wilson.

8. If the Court denies father leave to appear by telephone, father requests that Wilson pay the costs of his air travel, hotel and rental car, because the hearing on the reasonableness of fees is necessitated by Wilson’s bad faith assertion of the foregoing improper line-items.

9. Father has filed a combined Motion under Rules 97 and 98 and requests that this Motion be held in abeyance pending a determination of the Rule 97 Motion. *See Marriage of Harrington*, (Colo. App., No. 07CA0379, May 29, 2008) (“[F]ather never waived his objection to the trial judge’s authority and consequently, the trial court was without authority to enter the order on remand before ruling on the motion for substitution”) (citing *Aaberg v. District Court*, 136 Colo. 525, 319 P.2d 491 (1957)).

**WHEREFORE**, for the foregoing reasons and based on the foregoing authorities, father requests that, upon the determination of father’s Rule 97 & 98 Motion, that Wilson’s Bill of Costs be denied in its entirety or, alternatively, that this matter be set for hearing.

Submitted this 25<sup>th</sup> day of March, 2009.

  
Sean L. Harrington

**CERTIFICATE OF MAILING**

I hereby certify that on the 26<sup>th</sup> day of March, 2009, a true and accurate copy of the foregoing *OBJECTION* has been mailed, first class postage prepaid, to the following:

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

and by electronic mail to:

David H. Yun ([DYun@jalegal.com](mailto:DYun@jalegal.com));  
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