

FIRST JUDICIAL DISTRICT, STATE OF COLORADO 100 Jefferson County Parkway Golden, Colorado 80401 Telephone: (303) 271-6190	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> trial court case No. 99 DR 3717 Div. 9 / Hon. Jack Berryhill
In re the Marriage of: Petitioner: CHRISTY RYAN and Respondent: SEAN HARRINGTON	
Sean L Harrington P.O. Box 351855 Westminster, CO 80035	
FATHER’S OBJECTION TO NON-PARTY WILSON’S MOTION FOR EXTENSION OF TIME TO RESPOND TO FATHER’S RULE 59 MOTION	

Sean L. Harrington, father, respectfully submits the within OBJECTION. In support thereof, father states as follows:

1. Non-party Wilson’s outside counsel has requested that father e-mail court filings to him via e-mail. A copy of his request vis-à-vis an October 27, 2008 e-mail (“*Thank you for providing me copies by email. If you would please email me copies of your future filings, I would appreciate it*”) is attached hereto and made part hereof by reference as “**Exhibit A.**”

2. Although non-party Wilson’s outside counsel claims that he “*never received a copy of [father’s Rule 59] Motion, nor had notice that it was filed,*” father attaches hereto his proof-of-service, marked as “**Exhibit B**” (the SMTP message header of the sent e-mail), which is consistent with his Certificate-of-Service attached to his Rule 59 Motion.

3. This is not the first time non-party Wilson’s outside counsel has accused father of failing to serve him. In one of the most recent instances, he recanted his accusation, admitting he failed to discover the e-mail in his Inbox. See **Exhibit C.**

4. Opposing counsel is bound by the same rules of civil procedure that the non-lawyer undersigned is. *Yadon v. Southward*, 64 P.3d 909, 912 (Colo. App. 2002); *Loomis v. Seely*, 677 P.2d 400, 402 (Colo. App. 1983). “[A]s officers of the court, attorneys owe a duty to the court that far exceeds that of lay citizens.” *Howell v. State Bar of Tex.*, 843 F.2d 205, 207 (5th Cir. 1988). Yet, inexplicably, opposing-counsel is repeatedly unable to comply with these Rules. For example, Wilson’s response to father’s Motion for Declaratory Judgment (for which Wilson was ostensibly awarded \$6,220 (approximately 250% the average cost of entire disciplinary proceedings that are assessed against a suspended or disbarred lawyer)), was filed **42 days** after father’s Motion was filed and without leave of this Court. Opposing counsel admitted under cross-examination by father, that his filing was untimely, that he did not plead excusable neglect, and that he did not have leave of the Court to file out-of-time.

5. As the Court of Appeals explained two weeks ago in *O’Quinn v. Baca*, [No. 09CA0388](#) (Colo.App., Jan. 7, 2010):

[R]ules are not mere technicalities; they have a purpose: Reasonable adherence to clear, reasonable and known rules of procedure is essential to the administration of justice. The administration of justice involves not only meticulous disposition of the conflicts in one particular case but the expeditious disposition of hundreds of cases. If the courts must stop to inquire where substantial justice on the merits lies every time a litigant refuses or fails to abide the reasonable and known rules of procedure, there will be no administration of justice. Litigants must be required to cooperate in the efficient disposition of their cases.

Slip. Op. at 4. (Quoting *United States v. Seigel*, 168 F.2d 143, 146 (D.C. Cir. 1948)).

6. Even more apropos is a ruling by U.S. Magistrate Judge Michael Watanabe in *Pace v. USAA*, [No. 05-cv-01562](#), (D.Colo., July 9, 2007), where attorneys' non-receipt of emails from the U.S. Court, District of Colorado, caused by a firewall setting, was not excusable neglect to avoid the sanction of attorney fees for the firm's attorneys' failure to appear at a settlement conference. Magistrate Watanabe found that the attorneys were,

“the responsible persons to adopt internal office procedures that ensure the court’s notices and orders are brought to their attention once they have been received.” *See also* Sean L. Harrington, “Law Firm's Faulty IT Policy Not Excusable Neglect to Avoid Sanctions,” Minnesota State Bar Association Computer & Technology Law Section Blog (February 14, 2008) (last retrieved 1/26/2010 from: <http://mntech.typepad.com/msba/2008/02/law-firms-fault.html>).

7. Finally, father does not waive his objection that Madeline Wilson is not a party to this action and has not complied with Rule 24 by filing a Motion and a pleading. This Court’s December 29, 2009 pronouncement to the contrary has no practical effect on the question, because this Court was without jurisdiction to rule on that matter while that same question is pending appeal in No. 09CA0751. Further, this Court does not have the authority to abrogate the Colorado Supreme Court’s holding in *People v. Anderson*, 828 P.2d 228, 230-31 (Colo. 1992) that compliance with the Rule by non-parties is mandatory in the presence of an objection by a real party. Because Wilson is not a party to this action, her motions, pleadings, responses, and requests for relief are not properly before the Court and are a legal nullity. *Hercules Equip. Co. v. Smith*, 335 P.2d 255, 257 (1959) (quoting 67 C.J.S. Parties §64, p. 1001).

WHEREFORE, for the foregoing reasons and based on the foregoing authorities, the Court should deny Wilson’s request for an enlargement of time within which to respond to father’s Rule 59 Motion.

Dated this 26th day of January, 2010.


Sean L. Harrington

CERTIFICATE OF MAILING

I hereby certify that on the 26th day of January, 2010, a true and accurate copy of the foregoing *OBJECTION* has been mailed, first class postage prepaid, to the following:

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

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



RE: Madeline Wilson Reprerentation

From: **Brett Huff** (bhuff@huffandleslie.com)
Sent: Mon 10/27/08 2:57 PM
To: 'Sean Harrington' (esoxlucios@msn.com)
Attachments:
[image001.jpg \(4.4 KB\)](#)

Thank you for providing me copies by email. If you would please email me copies of your future filings, I would appreciate it.

Brett N. Huff
Huff & Leslie, LLP
2480 Gray Street
Denver, Colorado 80214

(303) 232-3622
(303) 274-0638 facsimile
(866) 599-2470 toll free

www.huffandleslie.com

CONFIDENTIAL

The information contained in this email is confidential and meant only for the person or persons to whom it is addressed. If you are not the person to whom this email is address, please do not read, contact the sender delete this email immediately.



EXHIBIT A

Content-Type: multipart/mixed;
boundary="_4da3-b285-af84fb3791a0_"
X-Originating-IP: []
From: Sean Harringt@msn.com>
To: <dyun@jalegal.com>,
<bhuff@huffandleslie.com>
Subject: Marriage of Harrington - Rule 59 Motion
Date: Tue, 12 Jan 2010 00:30:45 -0600
Importance: Normal
MIME-Version: 1.0

--_b61697c3-4254-4da3-b285-af84fb3791a0_
Content-Type: multipart/alternative;
boundary="_392e3b33-50f6-4d7b-b976-f68643312b3f_"

--_392e3b33-50f6-4d7b-b976-f68643312b3f_
Content-Type: text/plain; charset="iso-8859-1"
Content-Transfer-Encoding: quoted-printable

Rule 59 Motion attached hereto. New NoA to follow in a few days or weeks.

Sean

=20

Hotmail: Trusted email with powerful SPAM protection.
<http://clk.atdmt.com/GBL/go/196390707/direct/01/>

--_392e3b33-50f6-4d7b-b976-f68643312b3f_
Content-Type: text/html; charset="iso-8859-1"
Content-Transfer-Encoding: quoted-printable

```
<html>
<head>
<style>!--
.hmmessage P
{
margin:0px=3B
padding:0px
}
body.hmmessage
{
font-size: 10pt=3B
font-family:Verdana
}
--></style>
</head>
<body class=3D'hmmessage'>
Rule 59 Motion attached hereto.&nbsp;=3B New NoA to follow in a few days or =
weeks.<br><br>Sean<br><br><br>
<br /><hr />Hotmail: Trusted emai=
l with powerful SPAM protection. <a href=3D'http://clk.atdmt.com/GBL/go/196=
390707/direct/01/' target=3D'_new'>Sign up now.</a></body>
</html>=
```

--_392e3b33-50f6-4d7b-b976-f68643312b3f_--

--_b61697c3-4254-4da3-b285-af84fb3791a0_
Content-Type: application/applefile
Content-Transfer-Encoding: base64
Content-Disposition: attachment; filename="2010-01-11_fathersRule59Motion.pdf"

EXHIBIT B

RE: Marriage of Harrington

From: **Brett Huff** (bhuff@huffandleslie.com)
Sent: Tue 10/06/09 1:08 PM
To: Sean Harrington (esoxlucios@msn.com)
Attachments:
[image002.jpg \(4.4 KB\)](#), [image003.jpg \(4.4 KB\)](#)



Please disregard my last email request. Getting down through my email, I did find the one you sent last night with a copy of your reply brief. Than you.

Brett N. Huff
Huff & Leslie, LLP
2480 Gray Street
Edgewater, Colorado 80214

(303) 232-3622
(303) 274-0638 facsimile
(866) 599-2470 toll free

www.huffandleslie.com

CONFIDENTIAL

The information contained in this email is confidential and meant only for the person or persons to whom it is addressed. If you are not the person to whom this email is addressed, please do not read, contact the sender and delete this email immediately.

From: Sean Harrington [mailto:esoxlucios@msn.com]
Sent: Tuesday, October 06, 2009 12:06 PM
To: Brett Huff
Subject: RE: Marriage of Harrington

P.S. --Is it possible that you did you not receive the PDF document last night? It was close to 8MB in size, but I looked for and did not receive any "undeliverable" message that your e-mail account rejected it because of size.

I have a copy of my sent e-mail for non-repudiation purposes.

Sean

From: bhuff@huffandleslie.com
To: esoxlucios@msn.com
Date: Tue, 6 Oct 2009 13:51:22 -0400
Subject: RE: Marriage of Harrington

EXHIBIT C



Mr. Harrington,

As a professional courtesy, I have been emailing you copies of my court filings, as opposed to placing them in the mail, so that you might get them more quickly than having them go through your post office box here in Colorado and then on to your current, secret, address.

Would you be willing to return the favor and email me a copy of your court filings? I would like to obtain them directly and not spend time looking at your website for documents that should be sent to me directly.

Thank you.

Brett N. Huff
Huff & Leslie, LLP
2480 Gray Street
Edgewater, Colorado 80214

(303) 232-3622
(303) 274-0638 facsimile
(866) 599-2470 toll free

www.huffandleslie.com

CONFIDENTIAL

The information contained in this email is confidential and meant only for the person or persons to whom it is addressed. If you are not the person to whom this email is addressed, please do not read, contact the sender and delete this email immediately.

From: Sean Harrington [mailto:esoxlucios@msn.com]
Sent: Tuesday, October 06, 2009 10:40 AM
To: Brett Huff; David Yun
Subject: Marriage of Harrington

Brett:

I uploaded a fully hyperlinked copy of the Reply (which was hand-delivered this morning), which copy you might find easier to review: http://www.knowyourcourts.com/Pleadings%20&%20Orders/99DR3717/2009-10-05_reply-inSupport-ofMotion-forContinuance.pdf

Now that the Reply has been filed, the Motion is ripe.

Sean

Your E-mail and More On-the-Go. Get Windows Live Hotmail Free. [Sign up now.](#)