

DISTRICT COURT, LARIMER COUNTY, STATE OF COLORADO Larimer County Justice Center 201 LaPorte Avenue, Suite 100 Fort Collins, Colorado 80521-2761 970-494-3500	
Plaintiff: STACY LYNNE, v. Defendants: NOAH BEALS	▲ COURT USE ONLY ▲ Case Number: 2018 CV 220 Courtroom: 3C
ORDER DENYING PLAINTIFF'S MOTION FOR SANCTIONS	

THIS MATTER is before the court on Plaintiff's motion for sanctions against opposing counsel, Kimberly Schutt, Esq. and Wick and Trautwein, LLC. The court has reviewed the motion and response. After careful consideration, the Court finds and orders as follows:

BACKGROUND AND PROCEDURAL HISTORY

Plaintiff filed her Complaint on December 4, 2018, asserting a claim for defamation against Defendant Beals. Defendant filed a motion to dismiss for lack of subject matter jurisdiction and a request for attorney's fees on January 11, 2019. In its order dated April 3, 2019 the Court granted Defendant Beals' motion to dismiss under C.R.C.P. Rule 12(b)(1) finding that Plaintiff had failed to sufficiently plead facts to support a finding that the court had subject matter jurisdiction. Specifically, the Court determined in its April 3, 2019 Order that Plaintiff failed to plead that Mr. Beals' statements were "willful and wanton." The court further determined that Plaintiff failed to allege in her Complaint that Defendant Beals' statements were made with "actual malice." Finding that Plaintiff failed to sufficiently plead her claim, the court dismissed this matter, without prejudice.

As a result of the dismissal of Plaintiff's claims, without prejudice, Defendant sought to recover attorneys' fees incurred in defense of the claim and submitted its request for attorneys'

fees and the accompanying affidavit of counsel, Kimberly Schutt, Esq. on April 18, 2019. Plaintiff objected to Defendant's request for attorneys' fees on May 1, 2019. Plaintiff objected to the Defendant's request for attorneys' fees on the basis that the court erred in dismissing the Plaintiff's claims and that the court should defer any ruling on Defendant's request for attorneys' fees until after ruling on Plaintiff's motion for post-trial relief under C.R.C.P. Rule 59.

The court denied Plaintiff's motion for post-trial relief on June 2, 2019 and thereafter set a hearing on Defendant's request for attorneys' fees in light of Plaintiff's objection thereto. A hearing was scheduled on Defendant's request for attorneys' fees on August 5, 2019. On July 31, 2019 defense counsel filed with the court a notice of supplemental attorneys' fees incurred by the Defendant in responding to Plaintiff's motion for post-trial relief. In response, Plaintiff filed an emergency motion to delay the August 5, 2019 hearing on attorneys' fees. Plaintiff again requested that the court delay a hearing on the Defendant's motion for attorneys' fees and suggested that the court should deny the Defendant's attorneys' fees due to the "repeated vexatious actions" of defense counsel to be outlined in a Plaintiff's forthcoming Motion for Sanctions. The court rescheduled the hearing on Defendant's motion for attorneys' fees to September 17, 2019 at 3:00 p.m. to allow Plaintiff additional time to prepare for such hearing.

Plaintiff thereafter filed a motion for sanctions which is currently pending before the Court

PLAINTIFF'S MOTION FOR SANCTIONS

Plaintiff filed her motion for sanctions on August 7, 2019. Defendants filed their response on August 21, 2019. As noted in the Defendant's response, Plaintiff fails to cite any rule or statute which would support the granting of sanctions against Ms. Schutt or the firm of Wick & Trautwein, LLC. The Plaintiff's motion contains a long and rambling discourse asserting facts that have absolutely no relevance to any claim for sanctions in the present matter or relate, in any way to "vexatious actions" on behalf of Ms. Schutt in this case.

The court finds that there is absolutely no basis in fact, or law, to impose sanctions upon Ms. Schutt or her firm. The Plaintiff's motion is therefore denied.

SO ORDERED: August 29, 2019.

BY THE COURT:



Stephen J. Jouard
District Court Judge