

Loehr, Rosemary Ann

From: Eric Sutherland <sutherix@yahoo.com>
Sent: Monday, October 07, 2019 12:11 PM
To: miller, alyson [DATE FILED: November 21, 2019 9:28 AM](#)
Cc: Loehr, Rosemary Ann; Mill, John W. [FILING ID: 1633B0B08757F](#)
Subject: Re: Out of town on 11/27 [CASE NUMBER: 2018CV149](#)

Ms. Miller,

Because the case is suspended, I will not file a motion to reschedule.

Furthermore, there is no need to file a motion because the proceeding was suspended prior to the conference and filing of the Notice of Hearing.

I do not expect any of this correspondence to be a part of the record. I am writing exclusively for the purposes of ensuring that there is no confusion about the requirements of the rules and that scheduling of the court is not affected by misunderstandings.

Eric Sutherland

Those rules are not mere technicalities; they have a purpose:

[R]easonable adherence to clear, reasonable and known rules of procedure is essential to the administration of justice.... [T]he 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.

[United States v. Seigel, 168 F.2d 143, 146 \(D.C.Cir.1948\)](#) cited in [O'Quinn v Baca](#)

On Monday, October 7, 2019, 11:46:54 AM MDT, miller, alyson <alyson.miller@judicial.state.co.us> wrote:

Mr. Sutherland,

Thank you for the email. If you are asking to reschedule, you need to file a motion to continue. It is not proper for me to upload this email correspondence into the case.

Thanks,

Alyson Miller

Court Judicial assistant

Larimer district court

Courtroom 5b – judge lammons

970-494-3810

From: Eric Sutherland <sutherix@yahoo.com>

Sent: Monday, October 07, 2019 11:42 AM

To: miller, alyson <alyson.miller@judicial.state.co.us>

Cc: Rosemary Ann Loehr <rloehr@shermanhoward.com>; John W. Mill <jmill@shermanhoward.com>

Subject: Fw: Out of town on 11/27

re: case no. 2018CV149

Ms. Miller,

Please note that I have made plans to be out of town the week of November 25th, 2019.

I believe I made my position clear during the telephone conference of Oct. 1, 2019. The proceeding was suspended upon filing the Rule 97 motion. I intend to follow the Rules of Civil Procedure and expect that the Rules will be followed by others including the district court.

Below, please find correspondence between myself and attorneys for the City of Fort Collins regarding this issue.

Eric Sutherland

----- Forwarded Message -----

From: Eric Sutherland <sutherix@yahoo.com>

To: Loehr, Rosemary Ann <RLoehr@shermanhoward.com>; John W. Mill <jmill@shermanhoward.com>; Carrie Daggett <cdaggett@fcgov.com>

Sent: Monday, October 7, 2019, 10:37:54 AM MDT

Subject: Re: Out of town on 11/27

Ms. Loehr,

You are incorrect. Rule 97 requires that all proceedings be suspended upon the filing of a motion for disqualification pursuant to Rule 97.

You were aware that the motion had been filed. The clerk was aware that the motion had been filed. The proceeding had been suspended. I attended the telephonic conference for one purpose: to ensure that the court and the other parties were aware of the motion, rule and suspension of the proceeding. I stated as much in the conference.

I am not surprised to learn that you are now deliberately disregarding the Rules of Civil Procedure. You previously violated Rule 11 by filing a pleading that contained a statement that you knew was false on a matter of significant importance. You took no action to correct the false statement after it was brought to your attention.

Your filing of a Notice of Hearing into a proceeding that you knew to be suspended is a violation of the Rules of Civil Procedure. The

I have condemned the practice of the Office of the City Attorney of the City of Fort Collins for routinely misinforming Council on legal matters. Despite this condemnation, this injurious and unacceptable practice continues. Just last week John Duvall elected to misinform Council once again on the legality of the practice of creating several Title 32 special districts with a single service plan. This practice creates absurd results. This practice is only utilized to disenfranchise and abridge the rights of others by virtue of the absurd results created.

The instant matter arose because the City Attorney deliberately misinformed Council on the propriety of adopting an ordinance in other than a regular meeting. This action was inconsistent with the Charter. The Charter is to be strictly construed. The City Attorney had been informed that the action was improper but told Council that "it would defy parliamentary procedure" to conduct an EUEB meeting during a council meeting. Yet, the Council did not take an oath to abide by parliamentary procedure. the Council took an oath to abide by the Charter. Our courts do not enforce parliamentary procedure. Our courts do ensure compliance with rule of law.

In short, Ms. Loehr, you are violating the rules that governs the activities of licensed attorneys in Colorado for the benefit of a sub-division of state government that frequently disregards the law. You are doing so despite written objections to this practice.

At this time, I feel confident that I would prevail on appeal in the matter of the second request for attorneys fees if Judge Lammons does not disqualify based solely on the refusal to disqualify. The facts stated in the motion and affidavit are more than what is required under case law to require disqualification. No party is obliged to continue submission to the decisions of a judicial official that is clearly bent of mind against a party when overwhelming evidence exists to show that the party can not expect a fair and impartial adjudication of the matter.

That said, please note that I only enumerated grounds for disqualification that pertained to the instant case. I was selective in this approach to the exclusion of other grounds.

I suggest that you do yourself a favor and retract your false statement and your errant Notice of Hearing as soon as the Rules allow you to do so.

I will write to Ms. Miller and explain the Rules once again to her as well as my need to attend to matters during the week of Nov. 25th.

Eric Sutherland

On Monday, October 7, 2019, 09:14:07 AM MDT, Loehr, Rosemary Ann <RLoehr@shermanhoward.com> wrote:

Mr. Sutherland,

As you recall, on Tuesday, October 1, 2019, you attended a telephonic hearing with myself, Mr. Duval, and the Clerk for Judge Lammons. The purpose of that call was to schedule a mutually agreeable time to hold the hearing that you requested. During that call, you did not state that you would be unavailable on November 27, 2019. And so, the hearing you requested has been set for November 27, 2019. The City followed the Rules of Civil Procedure during the telephonic hearing and this hearing has been properly set by the Court.

If you now are unavailable, it is your responsibility to notify the Court as soon as possible and request that the Court reschedule the hearing.

The City will attend the hearing on November 27, 2019 unless and until the Court vacates the hearing. The City will also refrain from making any plans that would render it unavailable to attend the November 27, 2019 hearing unless and until the hearing is vacated.

Thanks,

Rosemary

Rosemary A. Loehr - Associate

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From: Eric Sutherland [<mailto:sutherix@yahoo.com>]

Sent: Sunday, October 06, 2019 3:21 PM

To: Mill, John W. <JMILL@shermanhoward.com>; John Duval <jduval@fcgov.com>; Loehr, Rosemary Ann <RLoehr@shermanhoward.com>

Subject: Out of town on 11/27

I have business out of town to attend to the week of thanksgiving.

Please follow the Rules of Civil Procedure.