1997 WL 796989
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United States District Court, D. Colorado.

Brenda VISOR, et al., Plaintiffs,
v.
SPRINT/UNITED MANAGEMENT COMPANY, Defendant.

No. Civ.A. 96-K-1730.

Dec. 31, 1997.

Paula Greisen, David H. Miller, Miller, Lane & Killmer, LLP, Denver, CO, for plaintiff/petitioner.

Janet Ann Savage, Davis Graham & Stubbs, LLP, Denver, CO, for defendant/respondent.

ORDER

KANE, J.

***1** On December 15, 1997 defendant filed a motion for reconsideration regarding the imposition of sanctions imposed on December 3, 1997. The motion was denied summarily because it was facially insufficient. There was no allegation that the court made a mistake of apprehension nor that there had been a significant change or development in the law or facts since submission. In the absence of either allegation, the law of the case doctrine requires a court to adhere to its rulings in the interest of expeditious resolution of disputes and to prevent continued reargument of issues already decided. *Major v. Benton,* 647 F.2d 110, 112 (10th Cir.1981), *applied in M.M. v. Zavaras,* 939 F.Supp. 799, 801 (D.Colo.1996) (Kane, J.) (motion for reconsideration filed without citation to legal authority and without basis under established Tenth Circuit precedent "aberrational" and "fit[ ] well within the definition of chutzpa").

The motion for reconsideration failed to include or be accompanied by a certificate as required by D.C.COLO.LR 7.1 A describing specifically the efforts to comply with the subject rule requiring counsel to confer or make reasonable good faith efforts to confer with opposing counsel to resolve the disputed matter. On December 16, 1997, opposing counsel filed a response to the motion for reconsideration asking that it be stricken for failure to comply with D.C.COLO.LR 7.1 A and for additional sanctions.

An order to show cause why sanctions should not be imposed was issued on December 17, 1997 to Defendant's counsel. A Response to the Order to Show Cause was filed on December 23, 1997. The response says that Defendant's counsel "did not view its request for reconsideration as falling under Rule 7.1's requirements." Further, counsel opined, "Defendant viewed its request as an appeal from the Court's order imposing sanctions. Thus, the issue being presented to the Court was not an issue between the Defendant and the Plaintiffs, but rather an issue between the Defendant and the Court." Calling a motion a "request" does nothing to obviate the rule. More to the point, the court does not "have" issues with litigants; it adjudicates them. Finally, in this respect, the relief sought by Defendant's counsel necessarily would have an effect on Plaintiffs' rights and position in the case thus giving them an immediate interest in the ruling on the issue.

In a most bewildering argument, counsel suggests there is only one purpose to Rule 7.1 and that is to "avoid having the parties waste the time and resources of the Court when a simple telephone (sic), letter, or conference would enable them to resolve a discovery matter without the aid of the Court. This purpose is revealed by the language indicating that the Court will not consider a motion unless counsel for the party filing the motion has conferred '*to resolve the disputed matter.*' Here, however, a conference between counsel for Defendant and Plaintiffs to discuss whether the Court's order imposing sanctions could be reconsidered could not have 'resolved the disputed matter.' It was only the Court, and not either party, who had the authority to reconsider the previous ruling."

***2** As an initial matter, the published *M.M.* decision resolves this issue and should have put it to rest. In *M.M.,* I specifically noted that Local Rule 7.1A exempts only motions filed under Fed.R.Civ.P. 12 or 56 from its meet and confer requirement. 939 F.Supp. at 800. Because motions for reconsideration are not exempt under the Rule and because "[c]ounsel are deemed to

know the Local Rules of Practice for this court," I denied the motion for failure to comply with Rule 7.1A. *Id.*

I note in addition in this case that one of many reasons why Rule 7.1A is in place is to encourage and maintain civility between and among counsel--an objective devoutly to be wished but so far unachieved here. Possible results of compliance with the Rule in this particular instance might have been that Defendant's counsel may have been apprised of the fact that there was no legal basis for reconsideration or, at a minimum, the matter to be submitted to the court could have been narrowed to a single issue or even submitted as a stipulation or without opposition. It is "only the Court, and not either party, who [has] the authority" to rule on any motion. Counsel, functioning as officers of the court in compliance with the local rules of practice, however, can increase the efficiency of motion practice not only for the benefit of the case in which they appear, but for the myriad of other pending cases as well.

None of the above, however, speaks to the fundamental issue and that is the violation of a specific order in this case. The Preface to the Local Rules of Practice of this Court provides that "a judge may modify or excuse compliance with the local rules for good cause shown and where circumstances warrant, provided that such modification or excuse is entered as an order of record." At the December 3, 1997 hearing, as part of a studied effort to restore order and civility to the processing of this case, I specifically ordered as follows:

> The next order is that any attorney who fails to comply with Rule 7.1(A) and the full spirit of that rule, and that does not mean 5:30 p.m. on Friday afternoon faxes, any attorney who fails to comply with Rule 7.1(A) will pay [[a] $1000 sanction per violation.

Rep. Tr., 12/3/97 Hg. at p. 55. Defendant's counsel has clearly violated this specific order and the prescribed sanction shall be imposed. Accordingly,

IT IS ORDERED that Defendant's counsel shall pay on or before January 15, 1998 to Plaintiffs' counsel the sum of $1,000 as a sanction for violation of the above order and,

IT IS FURTHER ORDERED that this sanction shall be paid by Defendant's attorneys and not passed on or charged to Defendant.

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