

FILED IN THE
20TH JUDICIAL DISTRICT
2005 FEB 18 AM 9:19

<p>COUNTY COURT, BOULDER COUNTY, COLORADO Court Address: Boulder County Justice Center P.O. Box 4249 1777 Sixth Street Boulder, CO 80306-4249 Phone Number: 303 441 3750</p>	<p>(2)</p> <p>DOCKETED</p>
<p>STEVEN DOUGLAS GARTIN, Plaintiff, v. THOMAS CHARLES MILLER, Defendant</p>	
<p>Kevin C. Massaro, Attorney for Defendant Englewood Law Building 3780 S. Broadway, Englewood, CO 80113 Phone: 720-981-4627 Fax: 720-834-2425 Atty. Reg. #: 24682</p>	<p>Case Number: 04C1779 Div./Ctrm.: 8</p>
<p>MOTION FOR PAYMENT OF ATTORNEY FEES</p>	

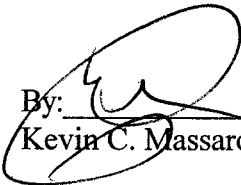
Defendant, Thomas Cecil Miller, through Counsel, responds to the Motion for Payment of Attorney Fees as follows:

1. On September 13, 2004, this Court has dismissed Plaintiff's claims, and declared Plaintiff's claims to be frivolous and groundless pursuant to C.R.S. §13-17-101, et. seq.
2. With that Order dismissing Plaintiff's claims, the Court gave Counsel fifteen (15) days to submit an affidavit for attorney fees.
3. Counsel did not receive a copy of the Order dismissing the matter, and filed a Second Motion to Dismiss in January 2005.
4. Sometime after the filing of the Second Motion to Dismiss, Counsel received a copy of the Order of September 13, 2004.

5. Hence, this delay was justified, in that Counsel was unaware the Court had ruled on the first Motion to Dismiss.
6. Under C.R.S. §13-17-102, the Court may award reasonable attorney fees for defending against any action that is substantially frivolous, groundless, or vexatious.
7. Counsel has presented the Court, with this filing, an Affidavit for Attorney Fees, and copies of the most recent billing associated with the defense of this frivolous action.

WHEREFORE, Defendant Thomas C. Miller respectfully requests that this Court ORDER payment of attorney fees by Plaintiff for the cost of defending this action.

Respectfully submitted this 15th day of February, 2005.

By: 
Kevin C. Massaro, Esq.

2-23-05. Noted. The Plaintiff shall be given fifteen (15) days to respond in writing. If either party requests it, a hearing will be set on the issue of an award of fees and costs.

CC: Steven Douglas Barton
Kevin C. Massaro