

DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Pkwy Golden, CO 80401	
<p><b>WILLIAM MONTGOMERY</b></p> <p>Plaintiff,</p> <p>v.</p> <p><b>BEST BUY STORES, L.P.,</b></p> <p>Defendant.</p>	<p><b>▲ COURT USE ONLY ▲</b></p>
Attorneys for Best Buy, L.P.: Lori K. Bell, Reg. No. 31714 Stephanie E. Boutsicaris, Reg. No. 51297 Montgomery   Amatuzio 4100 East Mississippi Avenue, Suite 1600 Denver, CO 80246-3048 Telephone: 303-592-6600 <a href="mailto:lbell@mac-legal.com">lbell@mac-legal.com</a> <a href="mailto:sboutsicaris@mac-legal.com">sboutsicaris@mac-legal.com</a>	Case No.: 2023CV226  Division: 11  Courtroom: 140
<p><b>DEFENDANT’S REPLY IN SUPPORT OF ITS MOTION FOR ATTORNEYS’ FEES</b></p>	

Best Buy Stores L.P. (“Best Buy”), by and through its attorneys of record, Montgomery | Amatuzio, submits its Reply in Support of Its Motion for Attorneys’ Fees as follows:

**Notice of Clerical Error**

It appears that there was a clerical error that led to Plaintiff’s Response getting filed in the same entry as Plaintiff’s Second Motion for Reconsideration (filed January 21, 2025). Plaintiff’s Response begins on page 7 of the filing. To the extent that the Court wishes to correct this error pursuant to C.R.C.P. 60 and treat Plaintiff’s Response as if it was filed on January 21, 2025, Defendant will not object.

## **Motion**

### I. Plaintiff had constructive or actual knowledge his claims would fail.

Plaintiff argues that he did not have knowledge that the present lawsuit would fail because the present claim differs from his previous lawsuits and previous claims of false imprisonment. However, Plaintiff fails to *meaningfully* differentiate between the present claim and his prior claims of false imprisonment and defamation. For instance, Plaintiff points to the fact that he was allegedly not a paying customer at Best Buy in the present case but he was allegedly a customer in previous cases. This fact would have had no bearing on the Court's analysis. The shopkeeper's privilege and the elements for false imprisonment are the same regardless if the claimant is a paying customer. The facts that allegedly differentiate the present claim from the previous claims are insignificant and irrelevant.

Furthermore, Plaintiff argues that "Prior Courts also got several facts WRONG in Plaintiff's previous cases." This section in Plaintiff's Response, in and of itself, is a prime example of Plaintiff rehashing the same failed legal argument. Because his claims failed previously and he continues to argue that the multiple prior court judgments were wrong, Plaintiff has constructive knowledge that he is asserting claims and arguments that will once again fail.

### II. Plaintiff's Response is a thinly veiled request for reconsideration of the Court's orders.

Keeping in line with Plaintiff's pattern of rehashing previously failed arguments, Plaintiff uses his Response to try to re-litigate the motions for summary judgment and his *first* motion for reconsideration, including when he asserts, "Numerous LEGAL ARGUMENTS have never even been addressed by the court." Plaintiff's repeated attempts to get a first, second, and third bite at

the apple should not be permitted or tolerated. In fact, Plaintiff has filed a *second* motion for reconsideration seeking to overturn the Court’s order on summary judgment. These repetitive motions and requests for reconsideration “unnecessarily expand[ ] the proceeding by [ ] improper conduct” and thus warrant an award of attorney’s fees. C.R.S. § 13-17-102 (4).

III. Plaintiff has filed three additional lawsuits against Best Buy.

Plaintiff states that “Defendant has no earthly idea what kinds of cases Plaintiff has yet to bring against it.” However, Best Buy was recently served with three additional lawsuits by Plaintiff, apparently alleging claims of false imprisonment: Case No. 2024CV000132 (Adams County District Court), Case No. 2024CV000241 (Jefferson County District Court), and Case No. 2024CV000242 (Jefferson County District Court). Plaintiff’s actions and bad faith litigation will continue until he is sufficiently deterred, which is why attorney’s fees are necessary here, pursuant to C.R.C.P. 11 and C.R.S. § 13-17-102.

IV. Plaintiff maintained his lawsuit in bad faith.

Plaintiff claims that his discovery conduct was excusable and that his “I do not recall” responses to written discovery were in good faith. However, the explanation for his discovery conduct is not credible, particularly given the comments in his YouTube video stating that he was not going to even tell the store whether he was a customer or not. **Exhibit L**, 17:15-17:55. Plaintiff’s lack of cooperation with discovery was pre-meditated and intentional.

In his Response, Plaintiff attempts to conduct a C.R.C.P. 37 analysis for his discovery behavior, but Defendant did not request C.R.C.P. 37 sanctions. Defendant sought sanctions under C.R.C.P. 11 and C.R.S. § 13-17-102. In particular, C.R.S. § 13-17-102 (4) would be applicable here: “The court shall assess attorney fees if . . . it finds . . . that the action, or any part thereof,

was interposed for delay or harassment or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including, but not limited to, abuses of discovery procedures available under the Colorado rules of civil procedure.” (Emphasis added). Discovery conduct can be sanctionable under C.R.S. § 13-17-102, and no C.R.C.P. 37 is needed or requested at this time.

WHEREFORE, for the forgoing reasons, Defendant Best Buy respectfully requests that this court enter an award of attorney’s fees against Plaintiff.

Filed January 28, 2025.

MONTGOMERY | AMATUZIO

By: s/ Stephanie Boutsicaris

Lori K. Bell

Stephanie E. Boutsicaris

Attorneys for Best Buy Stores, L.P.

**CERTIFICATE OF SERVICE**

I hereby certify that, on January 28, 2025, a true and correct copy of the foregoing was prepared for service to the following in the manner indicated below:

*Pro se Plaintiff:*

William Montgomery  
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U.S. Mail    Email    CCES

*s/ Stephanie Boutsicaris* \_\_\_\_\_