

DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, Colorado 80401-6002	
Plaintiff: WILLIAM MONTGOMERY v. Defendant: BEST BUY STORES, L.P.	DATE FILED March 18, 2025 1:15 PM CASE NUMBER: 2023CV226 ▲ COURT USE ONLY ▲ Case Number: 2023CV00226 Division: 06 Courtroom: 520
ORDER RE: DEFENDANT’S MOTION FOR ATTORNEY FEES	

THIS MATTER comes before the Court on Defendant Best Buy Stores’ motion for attorney fees. The Court, having reviewed the pleadings, the case file, the applicable law, and being otherwise fully advised, rules as follows:

I. BACKGROUND

Plaintiff William Montgomery filed his complaint on November 21, 2023, alleging that Defendant Best Buy committed false imprisonment, defamation per se, and assault when its employees briefly detained Plaintiff and accused him of stealing after Plaintiff left its Westminster store.

Defendant filed a motion for summary judgment on July 25, 2024, seeking summary judgment on all of Plaintiff’s claims. The Court granted summary judgment for, among other things, Shopkeeper’s Privilege. The Court also received body camera footage of the alleged detainment from Plaintiff, which showed Defendant’s employees asking Plaintiff to return the purported stolen merchandise while they stood near him for several minutes outside the store.

Additionally, the Court received a YouTube video from Defendant that Plaintiff had recorded and uploaded. In this video, Plaintiff explains how he gets “free lawsuits” by going into stores and conducting himself in a manner that could be reasonably construed as suspicious and then suing when employees confront him upon believing he is stealing. Plaintiff has also filed numerous nearly identical cases against other stores around Colorado.¹

Since the time the Court granted Defendant’s motion for summary judgment, Plaintiff has filed at least three additional lawsuits against Best Buy, also alleging claims of false imprisonment: Case No. 2024CV00132 (Adams County District Court), Case No. 2024CV000241 (Jefferson

¹ See Jefferson County case 2020CV76, Adams County case 2020CV067, Arapahoe County case 2020CV148, Arapahoe County case 2020CV209, Arapahoe County case 2021CV1, Adams County case 2021CV68, Adams County case 2021CV88, and Arapahoe County case 2021CV235.

County District Court), and Case No. 2024CV000242 (Jefferson County District Court).

Defendant filed this motion for attorney fees on December 31, 2024. Plaintiff filed a response and Defendant replied.

II. LEGAL STANDARD

A Colorado court shall award reasonable attorney fees “against any attorney or party who has brought or defended a civil action . . . that the court determines lacked substantial justification” or “was interposed for delay or harassment,” or who has “unnecessarily expanded the proceeding by other improper conduct, including, but not limited to, abuses of discovery procedures.” C.R.S. § 13-17-102(2), (4). “Lacked substantial justification” means “substantially frivolous, substantially groundless, or substantially vexatious.” C.R.S. § 13-17-102(9)(a).

Parties appearing pro se shall not be assessed attorney fees “unless the court finds that the party clearly knew or reasonably should have known that the party’s action or defense . . . was substantially frivolous, substantially groundless, or substantially vexatious[.]” C.R.S. § 13-17-102(6).

“A claim is frivolous if the proponent has no rational argument to support it based on evidence or the law. A claim is groundless if there is no credible evidence to support the allegations in the complaint. A vexatious claim or defense is one brought or maintained in bad faith.” Zivian v. Brooke-Hitching, 28 P.3d 970, 974 (Colo. App. 2001).

“Meritorious actions that prove unsuccessful and good faith attempts to extend, modify, or reverse existing law are not frivolous.” City of Aurora v. Colo. State Eng’r, 105 P.3d 595, 620 (Colo. 2005). However, awarding attorney fees is an important sanction against an attorney or party who brings unjustified litigation. Sifton v. Stewart Title Guar. Co., 259 P.3d 542, 546 (Colo. App. 2011).

III. ANALYSIS

Defendant argues that Plaintiff’s action was substantially vexatious and that Plaintiff knew or should have known his action was substantially vexatious. The Court agrees.

An action is “substantially vexatious” if “brought or maintained in bad faith to annoy or harass another, and vexatiousness includes conduct that is arbitrary, abusive, stubbornly litigious, or disrespectful of the truth.” In re Parental Responsibilities of I.M., 410 P.3d 488, 492 (Colo. App. 2013).

The Court finds that Plaintiff planned this lawsuit before bringing it. (See Defendant’s Ex. L, YouTube Video at 17:13, “I’ve already got cases where I’ve got it all set up perfectly—a true sting.”) On the date of the incident, Plaintiff sought to engage Best Buy in a situation that would result in a lawsuit. To do so, Plaintiff drove more than a hundred miles over the course of eight hours to various Best Buy locations to make numerous purchases, many of which were duplicitous. (Defendant’s Ex. O, Google Maps). These purchases were made, at least in part, with the hopes of

baiting the Best Buy stores into confronting Plaintiff. (Defendant's Ex. Q, Deposition at 109:16-111:17). When speaking about his actions on that day, Plaintiff analogized his conduct to that of a police bait car. (Defendant's Ex. Q, Deposition at 35:23-37:5, 45:16-46:9).

Once the lawsuit was underway, the Court finds that Plaintiff continued to maintain the lawsuit in bad faith. Before filing this lawsuit, Plaintiff verbalized that he had no intention of cooperating in good faith with court procedure:

I'm not going to be so nice next time [I file a lawsuit]. I've already got cases where I have it all set up perfectly, a true sting. Where I'm not going to say I had a receipt or not, I'm not even going to say I was a customer or not. The burden of proof ain't on me for anything, man. All I've got to show is that I was surrounded and then they have to be the ones that separate the wheat from the chaff. I'm not, I'm done doing the merchants' homework, even in a lawsuit, man.

(Defendant's Ex. L, YouTube Video at 17:15-17:55).

During discovery, Plaintiff failed to comply with his Rule 26(a)(1) disclosure requirements and provided evasive discovery responses. Plaintiff omitted his brother from his 26(a)(1) Initial Disclosures, despite stating that his brother spent the entire day of the incident with him. (Defendant's Ex. S, Initial Disclosures; Defendant's Ex. Q, Deposition at 107:13-18). Plaintiff responded to many of Defendant's discovery requests with "I do not recall," despite in later pleadings making definite statements about the same subject matter. (Defendant's Ex. T). This all appears to be purposeful by Plaintiff to provide Defendant with as little information as possible, especially given the context of his earlier statement plotting to refuse to cooperate with opposing counsel.

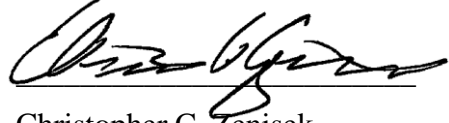
The above facts lead the Court to conclude that Plaintiff brought and maintained this suit in bad faith and, based on his statements in his deposition and YouTube video, knowingly did so. Plaintiff's planning and searching for a lawsuit and failure to cooperate honestly with the discovery process are stubbornly litigious, disrespectful of the truth, and abusive of the court system. For this reason, the Court concludes that attorney fees are justified under C.R.S. § 13-17-102. Additionally, the Court hopes a sanction of attorney fees may deter Plaintiff from repetitively bringing nearly identical vexatious lawsuits to other courts, which he currently appears determined to continue.

IV. CONCLUSION

For the reasons discussed above, Defendant's motion for attorney fees is **GRANTED**. Defendant will be awarded reasonable attorney fees. Defendant Best Buy shall submit its computation within 21 days. Plaintiff may object to reasonableness within the 14 days that follow.

Done in Golden, Colorado this 18th day of March, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Chris Zenisek", written over a horizontal line.

Christopher C. Zenisek
District Court Judge