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Panel to lawyer: No more filings until sanctions paid

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A state appeals panel on Monday further sanctioned a Chicago attorney who is already on the hook for more than \$160,000 in sanctions for filing frivolous lawsuits.

The 1st District Appellate Court ruled to block any future filings by Dennis James Stolfo of Stolfo Law Offices until he pays all of the sanctions he owes. If he doesn't, he'll be sanctioned further.

"Our review of the record on appeals reveals that Stolfo has engaged in a long history of frivolous conduct," Justice Joy V. Cunningham wrote. "Stolfo has filed numerous frivolous appeals, despite repeated warnings and sanctions."

Additionally, the attorney opposing Stolfo in an underlying defamation suit said he plans to file a complaint with the Attorney Registration & Disciplinary Commission.

"What you have here is a pattern, as recognized by the appellate court, a pattern of filing pleadings that are factually and legally baseless," said David F. Wentzel of Wentzel Law Offices, who represents the defendant, KinderCare Learning Centers Inc.

Stolfo declined to comment. His ARDC listing indicates he was admitted to the bar in November 1972 and has no past or pending disciplinary cases.

The sanctions and the numerous appeals Stolfo has filed stem from a 2004 lawsuit he filed on behalf of his client against her former employer.

Plaintiff Mary Iacovetti sued KinderCare and three of its employees for defamation and false light after she was fired for allegedly failing to watch the children at the nursery school.

Iacovetti claimed the employer's accusations of her job performance were false, but she admitted in her own deposition that the incidents leading to her termination actually happened.

Then-Cook County Circuit Judge Charles R. Winkler granted summary judgment to KinderCare in May 2009; KinderCare sought sanctions against Stolfo in the trial court. Meanwhile, Stolfo appealed the summary judgment ruling.

In September 2011, the 1st District panel rejected Stolfo's appeal as frivolous and without merit.

"In that order we stated that we were 'tempted' to award sanctions and advised Stolfo to be 'much more circumspect in bringing matters before this court,'" Cunningham wrote in Monday's decision.

Stolfo didn't fare much better during sanction proceedings at the Daley Center. Winkler issued a \$139,992.64 sanction against Stolfo in April 2011 in a nonfinal order, then confirmed it that November.

"Stolfo 'continued to prosecute a cause of action after his client's deposition testimony shut the door to any possibility of recovery,'" Cunningham wrote. "The trial court explained that the amount represented legal fees incurred by the respondents after Stolfo 'knew or should have known that [his client's] case was hopeless.'"

Since then, Stolfo has filed a number of petitions and appeals in an attempt to overturn or vacate the November 2011 judgment.

Nearly all of these attempts have failed and have resulted in Stolfo being criticized and sanctioned by the 1st District for filing frivolous lawsuits. Wentzel said one of Stolfo's appeals, case 14-3608, is still pending before the 1st District.

As a result of those other filings, Stolfo has to pay an additional \$22,137.25 in sanctions.

In the current appeal, Stolfo again attempted to vacate the November 2011 judgment.

Stolfo argued that because KinderCare converted from a corporation to a limited liability company, it was not the entity that the court awarded sanctions — that entity ceased to exist, he contends, and the judgment should be vacated.

Stolfo also argued the sanctions should be dismissed because KinderCare's legal fees were paid by a nonparty in the case, Knowledge Learning Corp.

The panel rejected Stolfo's arguments under the doctrine of res judicata — the issues raised have already been settled by the court or could have been settled by the court in earlier stages.

In its 12-page unpublished order, the panel found Stolfo had unsuccessfully raised the limited liability corporation argument and never explained why his new arguments "could not have been included in his direct appeal."

The panel was also critical of the quality of Stolfo's findings. The three justices noted that his statement of facts was less than a page long and could have been dismissed on that basis alone, but decided to continue because there was enough evidence in the record.

"Moreover, much of the argument in his appellate briefing is rambling, repetitious and consists of jumbled run-on sentences, many of which are not decipherable," Cunningham wrote.

Stolfo has not paid any of his sanctions, according to Wentzel, who said he was glad the 1st District has essentially cut Stolfo off until he pays.

The decision Monday gave Wentzel 14 days to show his clients' expenses and to recoup attorney

fees from Stolfo. Stolfo will then have a chance to respond and that's the only thing he may file without the appellate court's leave.

Wentzel estimated the current appeal will cost Stolfo around \$20,000 more in attorney fees.

With only one appeal remaining, Wentzel said he feels comfortable filing a complaint with the ARDC over Stolfo's conduct.

"I've got bankers boxes of documents relating to the frivolous and harassment litigation from this man. Hopefully now, it'll come to an end," Wentzel said.

Justices Maureen E. Connors and Sheldon A. Harris concurred in the order.

The case is *Dennis James Stolfo v. KinderCare Learning Centers, Inc. et al.*, 2016 IL App (1st) 142396.

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