

# Chicago Daily Law Bulletin



Serving the city's law profession since 1854

March 15, 2016

## Panel piles on penalties for lawyer's repeat filings

By David Thomas  
Law Bulletin staff writer

A state appeals panel sanctioned Chicago attorney Dennis James Stolfo \$22,864.48 for continually filing frivolous lawsuits. The sanctions are on top of the more than \$160,000 he already owes.

The 1st District Appellate Court published the opinion Monday after initially releasing its decision Jan. 11 as an unpublished Rule 23 order. David F. Wentzel, the attorney for respondent KinderCare Learning Services Inc. in the lawsuit, moved for its publication.

Under Supreme Court Rule 23, appeals courts are instructed to issue a ruling as a published opinion when the decision "establishes a new rule of law or modifies, explains or criticizes an existing rule of law."

Unpublished orders cannot be cited as precedent by parties in subsequent cases.

Unlike the January order, Monday's opinion does not actually include language that requires Stolfo to pay up before he can file any new petitions or appeals in the appellate court.

Wentzel said he thinks this was an oversight and will file a motion to correct it.

"I think it's just an error," he said. "That was the whole basis of my motion to publish. It breaks new ground. It doesn't make any sense to grant it on the basis that it broke new ground and then leave off the sentence that broke the new ground."

Stolfo has not paid any of the sanctions and is fighting to prevent the release of his assets, Wentzel said.

Stolfo declined to comment.

The panel's opinion requires Stolfo to "obtain leave of this court" before he submits any other filings. Wentzel said he believes this applies to the entire appellate court, not just this case.

"It appears to me to be in general," Wentzel said. "The language of the opinion does not restrict it to this case."

Wentzel had initially said he was going to file a complaint with the Attorney Registration & Disciplinary Commission over Stolfo's behavior.

But now he said he will hold off because he has other ongoing legal proceedings against Stolfo.

"I don't want to create any perception with the board that I am trying to gain an advantage or interfere with the court's consideration of what is still pending," Wentzel said.

Monday's opinion marks at least the third time Stolfo has been sanctioned over his 2004 lawsuit he filed on behalf of his client against KinderCare.

Plaintiff Mary Iacovetti sued KinderCare and three of its employees for defamation and false light after she was fired for allegedly failing to watch 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 happened.

Stolfo was sanctioned in November 2011 for \$139,992.64 by then-Cook County Circuit Judge Charles R. Winkler for filing a frivolous lawsuit.

Since then, Stolfo has filed a number of petitions and appeals in an attempt to overturn or vacate Winkler's judgment. That led to him getting hit with another \$22,137.25 in sanctions.

In the underlying appeal, Stolfo argued that because KinderCare converted from a corporation to a limited liability company, it was not the same entity that the court awarded sanctions to — 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.

"Especially in light of Stolfo's blatant disregard for our court's prior admonitions, we have no difficulty in finding that this current appeal is frivolous and 'not taken in good faith,'" Justice Joy V. Cunningham wrote in the opinion.

Wentzel and KinderCare sought sanctions against Stolfo after the panel released its Jan. 11 order. Wentzel submitted his paperwork and expenses, which amounted to \$22,864.49.

Stolfo did not dispute those charges; instead, the panel said, he reiterates many of the same arguments on why his underlying motion was valid.

"Instead, Stolfo's response asserts numerous arguments — many of them frivolous and repetitive of his prior arguments — claiming that his [S]ection 2-1401 petition should not have been dismissed and maintaining that the respondents are not entitled to any Rule 375 sanctions whatsoever," Cunningham wrote.

The panel said it could have fined Stolfo again, but declined to.

Justices [Maureen E. Connors](#) and [Sheldon A. Harris](#) concurred with the opinion.

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

©2016 by Law Bulletin Publishing Company. Content on this site is protected by the copyright laws of the United States. The copyright laws prohibit any copying, redistributing, or retransmitting of any copyright-protected material. The content is NOT WARRANTED as to quality, accuracy or completeness, but is believed to be accurate at the time of compilation. Websites for other organizations are referenced at this site; however, the Law Bulletin does not endorse or imply endorsement as to the content of these websites. By using this site you agree to the [Terms, Conditions and Disclaimer](#). Law Bulletin Publishing Company values its customers and has a [Privacy Policy](#) for users of this website.