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| DISTRICT COURT, DENVER COUNTY, COLORADO |  |
| Court Address: |  |
| Denver District Court |  |
| 1437 Bannock St., Room 256 |  |
| Denver, CO 80202 DATE | FILED: April 27, 2016 3:11 PM |
| FILIN | G ID: 4FA954CFEA265 |
| **In The Matter of:** CASE | NUMBER: 2015CV31709  **COURT USE ONLY** |
| **ROBERT ABRAMS AND ABRAMS AND ASSOCIATES, LLC, A** |  |
| **COLORADO LIMITED LIABILITY COMPANY.** |  |
| **Plaintiffs** |  |
| **Vs.** |  |
| **SHAWN BEESON,** |  |
| **Respondent** |  |
| Law Office of Michael P. Boyce, PC Michael Boyce  3773 Cherry Creek Drive North, Suite 575 Denver, CO 80209  Phone Number: 303.565.0360 E-mail: [mike@boycelawoffice.com](mailto:mike@boycelawoffice.com) FAX Number: 303.648.4849 Atty. Reg. #: 35729 | Case Number: 15CV31709  Division 409 |
| **DEFENDANT’S MOTION *IN LIMINE* TO EXCLUDE PLAINTIFF’S PROPOSED TRIAL EXHIBITS** | |

SHAWN BEESON, through his attorney, Michael Boyce, of the Law Office of Michael Boyce, P.C., hereby requests the following proposed trial exhibits submitted by Plaintiff be excluded from admission at trial and states the following:

[C.R.C.P. 121](https://1.next.westlaw.com/Link/Document/FullText?findType=L&amp;pubNum=1005387&amp;cite=COSTRCPR121&amp;originatingDoc=I3bd66758993b11dda181fa67736a1dfe&amp;refType=LQ&amp;originationContext=document&amp;transitionType=DocumentItem&amp;contextData=(sc.Search)) § 1-15, ¶8 Certification: Defendant's counsel has conferred in good faith with Plaintiff's counsel about this Motion. Plaintiff's counsel opposes the relief requested in this Motion.

# INTRODUCTION

* + - 1. Pursuant to [CRE 103(c)](https://1.next.westlaw.com/Link/Document/FullText?findType=L&amp;pubNum=1005389&amp;cite=COSTREVR103&amp;originatingDoc=I3bd66758993b11dda181fa67736a1dfe&amp;refType=LQ&amp;originationContext=document&amp;transitionType=DocumentItem&amp;contextData=(sc.Search)) and the rule in [Good v. A. B. Chance Co., 39 Colo. App. 70, 565 P.2d 217 (App. 1977)](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&amp;serNum=1977113082&amp;pubNum=0000661&amp;originatingDoc=I3bd66758993b11dda181fa67736a1dfe&amp;refType=RP&amp;originationContext=document&amp;transitionType=DocumentItem&amp;contextData=(sc.Search)), moves *in limine*, prior to the opening of trial and prior to *voir dire* of the prospective jury panel and opening statement by other counsel, for an Order that the certain matters enumerated in this Motion not be mentioned or referred to within hearing of the jury until there can be an appropriate determination and ruling by the Court on the exhibits enumerated herein.
      2. As grounds for this motion, Defendant states and shows the Court the following:
         1. [CRE 103(c)](https://1.next.westlaw.com/Link/Document/FullText?findType=L&amp;pubNum=1005389&amp;cite=COSTREVR103&amp;originatingDoc=I3bd66758993b11dda181fa67736a1dfe&amp;refType=LQ&amp;originationContext=document&amp;transitionType=DocumentItem&amp;contextData=(sc.Search)) requires that proceedings be conducted to the extent practicable so as to prevent inadmissible evidence from being suggested to the jury by any means, and encourages the making of statements and offers of proof out of the hearing of the jury.
         2. [Good v. A. B. Chance Co., 39 Colo. App. 70, 565 P.2d 217, 221 (App. 1977)](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&amp;serNum=1977113082&amp;pubNum=0000661&amp;originatingDoc=I3bd66758993b11dda181fa67736a1dfe&amp;refType=RP&amp;fi=co_pp_sp_661_221&amp;originationContext=document&amp;transitionType=DocumentItem&amp;contextData=(sc.Search)&amp;co_pp_sp_661_221), specifically recognizes “motions *in limine*” to deal with sensitive evidentiary issues which have the potential for prejudice and/or a mistrial if not delicately handled. Motions *in limine* aid in applying the rule of “legal relevancy” to avoid prejudice or immaterial side issues and thus assists the Court in balancing of “probative values” against “probative dangers.”
      3. The plaintiff has listed a number of exhibits that fall into one or more of several categories requiring their exclusion from admission in the Jury Trial currently scheduled to begin on May 2, 2016. The plaintiff seeks to admit evidence which is privileged, irrelevant to the determination of issues before the jury, inadmissible character evidence, incomplete under the requirements of the Colorado Rules of Evidence, or excluded from admissibility by the Colorado Rules of Professional Conduct.
      4. The Plaintiff has filed claims against the Defendant for Battery, Extreme and Outrageous Conduct, and Breach of Contract. The Defendant has denied these claims and filed counterclaims for Battery, Breach of Contract, and Civil Theft.
      5. The Plaintiff has filed five C.R.C.P. 26(a)(1) supplemental disclosures in this matter. The “Plaintiff’s Exhibit” numbers correspond to the paragraphs listed in Plaintiff’s C.R.C.P. 26(a)(1) Third, Fourth, and Fifth Supplemental Disclosures.

# PLAINTIFF’S EXHIBITS 3, 4, 31, 34, AND 35 ARE BARRED FROM INTRODUCTION INTO EVIDENCE BECAUSE THEY ARE PRIVLIGED

* + - 1. CRE section 13-90-107(1)(b) states [a]n attorney shall not be examined without consent of his client as to any communication made by the client to him or his advice given thereon in the course of professional employment; nor shall an attorney’s secretary, paralegal, legal assistant, stenographer, or clerk be examined without the consent of his employer concerning any fact the knowledge of which he has acquired in such capacity.
      2. Plaintiff seeks to introduce email correspondence between himself and his former client, Shawn Beeson, between the dates of December 7, 2012 – December 21, 2012 (Plaintiff’s Exhibit 3 & 34), and email correspondence between the Plaintiff, Defendant, and Paul Faraci, opposing counsel for Denver CARES dated October 22 – October 23, 2012. (Plaintiff’s Exhibit 35). The Plaintiff is also attempting to introduce email correspondence between the Plaintiff’s paralegal, Brittney Hayes, and Mr. Beeson between the dates of December 12, 2012 and December 21, 2012 (Plaintiff’s Exhibit 4), and the dates of February 8 and February 13, 2013 (Plaintiff’s Exhibit 31). These communications are privileged and/or irrelevant and Mr. Beeson has not waived his privilege to these communications between himself and his former attorney or any employee of Abrams and Associates. Without a waiver of privilege, these exhibits are inadmissible.

# PLAINTIFF’S PROPOSED EXHIBITS 2, 7, 8, 11, 12 , 13, 14, 19, AND 37 ARE INADMISSABLE PURSUANT TO THE COLORADO RULES OF EVIDENCE AS IRRELEVANT AND/OR IMPERMISSIBLE CHARACTER EVIDENCE

* + - 1. “‘Relevant evidence”’ means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” CRE 401. “Evidence which is not relevant is not admissible.” CRE 402. “Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice…or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” CRE 403. “Evidence of a person’s

character or a trait of his character is not admissible for the purpose of proving that he acted in conformity therewith on a particular occasion.” CRE 404(a).

* + - 1. The Plaintiff seeks to introduce email correspondence between the Plaintiff and opposing counsel in the original civil case, Paul Faraci between the dates of October 2, 2012 and October 22, 2012 (Plainitiff’s Exhibit 2). The subject of the communications deals with opposing counsel stating to the Plaintiff that Mr. Faraci was going to file a motin for sanction of dismissal based on allegations of Mr. Beeson lying. At the March 24, 2016 pretrial conference, the Court already ruled that the Plaintiff will not be able to introduce the Motion for Dismissal ultimately filed by Paul Faraci in that matter because it is not relevant. The email correspondence prior to the filing is not relevant either and should therefore be excluded.
      2. The Plaintiff seeks to introduce and email between Nathan Silver and Robert Abrams dated December 21, 2012. (Plaintiff’s Exhibit 5). The email contains an email from the Defendant to Nathan Silver which Nathan Silver forwards to the Plaintiff. The email from the Defendant to Nathan Silver requests a meeting with Defendant and Nathan Silver to regarding what the Defendant viewed as lies and mistruths by the Plaintiff. This proposed exhibit has no relevance to any issue before the jury.
      3. The Plaintiff is seeking to introduce the Notice of Attorney’s Lien, dated December 7, 2012. (Plaintiff’s Exhibit 7). This document has no relevance whatsoever.
      4. The Plaintiff seeks to introduce an Affidavit for Attorney’s Fees dated January 15, 2016. (Plaintiff’s Exhibit 8). This document is a conclusory statement concerning the amount allegedly owed by Mr. Beeson to the Plaintiff based on Plaintiff’s theory of quantum meruit. It is a document manufactured by the Plaintiff without any supporting documentation. Furthermore, the Plaintiff has failed to provide a section denoting the “division of work” by the attorneys, paralegals, and staff that worked on the case, how many hours each spent on the case, or to otherwise delineate how the Plaintiff arrived at this number. The uncorroborated assertions contained in the document are irrelevant and highly prejudicial against Mr. Beeson. Furthermore, this affidavit is self-serving hearsay which the Plaintiff seeks to introduce in order to improperly bolster his credibility with the jury.
      5. The Plaintiff also seeks to introduce a “billing statement” dated December 27, 2012. (Plaintiff’s Exhibit 10). Again, these contain conclusory statements of amounts owed without any information to substantiate where the amounts come from.
      6. The Plaintiff is also seeking to introduce two Temporary Protection Orders, dated May 20, 2015 and June 1, 2015. (Plaintiff’s Exhibits 11 and 12). Not only are these documents irrelevant, the introduction of these exhibits would be highly predjucial to Mr. Beeson since they are Court Orders against Mr. Beeson requiring he refrain from contact with the Plaintiff. The jury will not know the difference between a temporary and permanent protection order, or the standards for granting each. The jury will be misguided into thinking that a Court had previously agreed with the Plaintiff’s allegations. In reality, after hearing the evidence, the Court concluded that the Plaintiff could not prove that his version of events by a preponderance of the evidence.
      7. In Plaintiff’s exhibit 13, he is seeking to introduce Mr. Beeson’s criminal history. The court has already ruled both in the Permanent Protection Order hearing and at the Pretrial Conference on March 24, 2016, that this exhibit would not be permitted to be introduced.
      8. The Court has also ruled that a motion from case 12CV79 entitled Defendant’s Motion to Dismiss as a Sanction for Willful Misconduct, dated August 9, 2012 by Paul Faraci and related pleadings thereto would not be admissible. (Plaintiff’s Exhibit 14).
      9. The Court has also ruled that the Internal Affairs Bureau letter dated October 28, 2011, signed by Lt. C. Ed Hall from IAB Case #P2011 08061 is irrelevant and therefore inadmissible. (Plaintiff’s Exhibit 19).
      10. The Plaintiff seeks to introduce an Amended Order re: Motion to Unseal Records, issued in Denver District Court Case 2010CV79 on April 7, 2016. (Plaintiff’s Exhibit 37). This item has no relevance to this litigation.
      11. Counsel for Mr. Beeson requests a hearing on this motion.

WHEREFORE, Shawn Beeson, through counsel, respectfully requests this Honorable Court grant the relief requested in Defendant’s Motion *In Limine* to Exclude Certain Trial Exhibits Proposed by Plaintiff.

Respectfully submitted this 27th day of April, 2016.

THE LAW OFFICE OF MICHAEL P. BOYCE, PC.

Date: 4/27/2016

/s/ Michael Boyce #35729 Attorney for Defendant

*(Original signature on file at The Law Office of Michael P. Boyce, P.C.)*

**CERTIFICATE OF SERVICE**

I hereby certify that I have delivered a true and correct copy of the Defendant’s Amended Motion In Limine to Exclude Certain Trial Exhibits Proposed by Plaintiff to the following on April 27, 2016:

*Email/Electronic Filing* Abrams & Associates, LLC Robert Abrams

700 17th Street, Suite 650

Denver, CO 80202 [Robert@AbramsLaw.net](mailto:Robert@AbramsLaw.net)

/s/ Michael Boyce #35729

*(Original signature on file at The Law Office of Michael P. Boyce, P.C.)*