

Sharif v. Wellness Intern. Network, Ltd.

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Sharif v. Wellness Intern. Network, Ltd.

Case: Sharif v. Wellness International Network, Ltd. (2008)

Subject Category: Federal cases, Civil procedure

Agency Involved: Private civil suit

Court: 5th Circuit Court of Appeals

Case Synopsis: A second request for an appeal was dismissed because the Appellant was engaging in tactics that made it appear that the purpose of the litigation was harassment. The Appellants were warned that additional such behavior may result in sanctions.

Legal Issue: Will a second request for an appeal be granted after the first request was dismissed for failure to conform with the court imposed deadlines?

Court Ruling: The 5th Circuit found the record indicated Appellants were prolonging litigation for the purpose of harassment and delay and denied the request.

Practical Importance to Business of MLM/Direct Sales/Direct Selling/Network Marketing/Party Plan/Multilevel Marketing: Brining litigation for the purposes of harassment or delay may result in court sanctions such as double costs.

Sharif v. Wellness Intern. Network, Ltd., 273 Fed. Appx. 316 (2008): A second request for an appeal was dismissed because the Appellant was engaging in tactics that made it appear that the purpose of the litigation was harassment. The Appellants were warned that additional such behavior may result in sanctions.

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Richard SHARIF, As Agent for Soad Wattar, Haifa Kaj and Ragda Sharifeh; Waqar Khan; Shafqut Khan; Abdul Rashid; Shaheen Rashid, Plaintiffs-Appellants

v.

WELLNESS INTERNATIONAL NETWORK, LTD. a/k/a Win; Ralph Oats; Cathy Oats; Win Network Inc., Defendants-Appellees.

No. 07-10834 Summary Calendar. April 8, 2008.

*317 Appeal from the United States District Court for the Northern District of Texas (3:05-CV-1367).

Before WIENER, GARZA, and BENAVIDES, Circuit Judges.

Opinion

PER CURIAM: *

After this appeal was dismissed for Appellants' failure to order a transcript timely and make financial arrangements with the court reporter, it was reinstated on September 26, 2007, leaving pending in the district court Appellees' motions for at least \$425,000 attorney's fees pursuant to Fed.R.Civ.P. 54(d)(2). A review of the record on appeal demonstrates that Appellants' untimely performance in this court mirrors a lengthy history in the district court of dilatoriness and hollow posturing interspersed with periods of non-performance or insubstantial performance and compliance by Appellants and their counsel, leaving the unmistakable impression that they have no purpose other than to prolong this contumacious litigation for purposes of harassment or delay, or both. The time is long overdue to terminate Appellants' feckless litigation at the obvious cost of time and money to the Defendants by affirming all rulings of the district court but remanding the case to that court for the reinstatement of its consideration of Appellees' motion for attorney's fees. In so doing, we caution Appellants that any further efforts to prolong or continue proceedings in this court, including the filing of petitions for rehearing, will potentially expose them to the full panoply of penalties, sanctions, damages, and

double costs pursuant to FRAP 38 at our disposal. 1

AFFIRMED; REMANDED FOR RULING AND DETERMINATION OF APPELLEES' MOTION FOR ATTORNEY'S FEES.

Parallel Citations

2008 WL 943014 (C.A.5 (Tex.))

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