

least twenty one (21) separate public statements on the public website www.unhappyfranchisee.com (hereinafter, "Website") regarding the pending litigation.²

Jonathan Fortman says:

May 19, 2012 at 3:41 am

I would not expect to get any official statement from Stratus. They are in total damage control mode now. The collapse we are seeing is pretty amazing considering that just three months ago, Stratus was making it known to anyone who would listen that Entrepreneur had chosen them as the #1 Commercial Cleaning Franchise. So what happened to get us to this point? The answer is that the Master Franchisees learned the truth. They got accurate information, only it was through the allegations contained in our lawsuits and not anything from their franchisor.

Jonathan Fortman says:

May 19, 2012 at 7:52 pm

One thing I can assure you is that we continue fighting for the Unit Franchisees. My concern, like yours, is that the people hurt the most would be lost in the battle between the masters and Stratus. I see my role at this point to be finding creative ways of resolving the issues so that the Unit Franchisees are compensated for their losses while giving the masters leaving the system a chance to survive...I am convinced that we have to put so much economic pressure on these companies and make it impossible for them to sell more franchises.

3. Fortman's comments on the Website have disclosed to the public audience, numerous updates as to the status of this litigation and described specific legal actions taken by him in his capacity as Plaintiffs' counsel.

Jonathan E. Fortman says:

June 21, 2012 at 5:48 am

Bob Stapleton and Marisa Lather were served with deposition subpoenas at their homes yesterday. We are now going forward with the out-of-state subpoenas which include Dennis Jarrett, Blair and Farrell.

² <http://www.unhappyfranchisee.com/stratus-master-franchise-jumping-ship/>

Jonathan E. Fortman says:

June 8, 2012 at 11:31 am

Reasoned Source, what's the latest? We are preparing to send Notices of Deposition for Pete Frese and Dennis Jarrett. In addition, we are going to subpoena Farrell, Stapleton, Marissa Lather, and Marvin. We've waited through this week to monitor any further developments. The Unit Franchisees just can't wait any longer. I'll keep you posted.

Jonathan E. Fortman says:

May 26, 2012 at 10:47 am

Reasoned Source: Thanks for the update. I take being referred to as a "junkyard dog" as a compliment. Once again, the Stratus attorneys are giving false information to you. Back in March, I requested a meeting to discuss scheduling issues and to see if we could work toward resolution. They flatly refused. As proof follow the link below to a brief email exchange I had with their attorney. After looking at that ask yourselves whom is in it for money. Their attorneys are charging by the hour and refuse to even meet. I am quickly losing whatever respect I had for them left after their ridiculous filing in federal court.

<https://www.dropbox.com/s/it2md79h9hlre95/Email%20Exchange%20Between%20Fortman%20and%20Jacober.docx>

4. Fortman's comments on the Website have expressed damaging and prejudicial opinions regarding the character and integrity of Defendants and its officers.

Jonathan E. Fortman says:

June 13, 2012 at 8:12 pm

As far as the trash talk coming out about those leaving, does that conduct surprise you considering who the lack of ethics of the CEO? No one will believe that BS. Hopefully, those leaving continue to take the high road. They gain nothing by engaging in a war of words.

Jonathan E. Fortman says:

June 21, 2012 at 5:48 am

If they believed there was any chance to save this ship from going under, they would be coming to us to talk about resolution of the issues. The masters, including the guy out there in the mountains, should be smart enough to see that Jarrett and Frese are desperate and don't care about anyone else. They are selfish, greedy and they have been exposed for the con men they are. I don't see how any master franchisee who has been hurt by these guys can stay in the system.

5. Fortman's comments on the Website have set forth his legal conclusions regarding the culpability of Defendants and stated such as undisputable facts.

Jonathan E. Fortman says:

June 21, 2012 at 5:48 am

My clients signed franchise agreements in the Stratus system. However, they have suddenly been switched to another company. We are cautiously optimistic that it will improve their opportunities. Open communication is key. Many of them have been cheated out of money, lied to about accounts, and threatened.

6. Fortman's comments on the Website include derogatory mischaracterizations of opposing counsel, who are his colleagues and fellow members of the Missouri Bar, and comments that are tantamount to mocking the Missouri Rules of Civil Procedure.

Jonathan E. Fortman says:

June 18, 2012 at 4:50 pm

Not surprisingly, within a short time of Frese being served, I received an email from Stratus' counsel setting a date for the hearing on their motion to dismiss which was filed after their ill-advised attempt at having the case heard in federal court.

Jonathan E. Fortman says:

June 26, 2012 at 9:57 pm

Stratus' attorney took the position that the Unit Franchisees had no contractual relationship with Stratus Franchising and any claim for damages must be made against the Masters. They also brought up the mediation requirement in the Master Agreements. I told the judge that we would be more than happy to go to mediation. Of course, Stratus isn't interested in resolution. This is all about delay.

Jonathan E. Fortman says:

May 26, 2012 at 10:47 am

Reasoned Source: Thanks for the update. I take being referred to as a "junkyard dog" as a compliment. Once again, the Stratus attorneys are giving false information to you... Their attorneys are charging by the hour and refuse to even meet. I am quickly losing whatever respect I had for them left after their ridiculous filing in federal court.

July 2, 2012 at 1:49 am

I received a nice letter from the "poodles" that was reminding me of my ethical duties... After all, the "poodles" have the audacity to call my ethics into question when they represent con men who have no ethics or morals... Normally, I would have shot off a letter telling them to go f#\$@ themselves. However, these days I just let it go. Instead of a letter, I gave them the amended petition. Now, we'll see what kind of crap they spew to try and delay this case any more. I just listened at the arguments they were making and shook my head. They have to know the inevitable result will not be in their favor.

7. Most shockingly, Fortman's comments on the Website included his opinion of the Judge presiding over this litigation.

Jonathan E. Fortman says:

June 21, 2012 at 5:48 am

Our case is now in high gear. There's some good info from the California case and we have a lot of info from various sources that absolutely proves blatant fraud. They scheduled their lame motion to dismiss for hearing next Tuesday. However, I have appeared before the judge assigned to this case many times. She is not going to tolerate any tactics used for the sole purpose of delay. My worst case is that she orders me to add the masters as necessary parties. It just subjects Dennis and Pete to more scrutiny and will expose more fraud.

8. Canon 20 of the American Bar Association's Canons of Professional Conduct provides ethical mandates for attorneys pertaining to their public statements involving the facts of pending litigation. "An *ex parte* reference to the facts should not go beyond quotation from the records and papers on file in the Court; but even in extreme cases it is better to avoid any *ex parte* statement."

9. As evidenced by Fortman's statements referenced above, Fortman has identified Defendants' officers served with subpoenas, communications made between Defendants' officers and Plaintiffs' counsel, and released a full copy of an e-mail between himself and opposing counsel. Fortman's comments on the Website constitute improper *ex parte* reference to the facts of this litigation – grossly exceeding the articulated limits of Canon 20.

10. Canon 28 of the Canons of Professional Conduct pertains to conduct of an attorney that serves to stir up litigation, either directly or indirectly. "Stirring up strife and litigation is not only unprofessional, but is indictable at common law."

11. Taken both as individual statements and in the aggregate, Fortman's narrative has no legal merit. For example, in Paragraph 4 Fortman described Defendants' CEO as lacking ethics while and with specific reference to two of Defendants' officers, Fortman described them as "selfish, greedy and...exposed for the con men they are."

12. Fortman's comments amount to a publicly-accessible repository of his own legal conclusions related to the merits of claims brought in this litigation. For example, Paragraph 2 contains a comment in which Fortman specifically states that Plaintiffs "have been cheated out of money, lied to about accounts, and threatened" by Defendants.

13. In paragraphs 2 and 6, Fortman has publicly described opposing counsel's advocacy as "ridiculous", "lame", "ill-advised", and "all about the delay".

14. Fortman's unchecked commentary and use of inflammatory language as provided in Paragraphs 2 through 7 only serve to skew the dialogue regarding this litigation, creating strife and embolden potential litigants in a manner expressly prohibited by Canon 28.

15. In addition to violating Canons of Ethics, Fortman's comments are proscribed by the Missouri Rules of Professional Conduct. Rule 4-3.6(a) limits the types of extrajudicial statements that an attorney can make regarding pretrial litigation:

"A lawyer who is participating...in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter."

16. Comment 5 to Rule 4-3.6 identifies specific types of statements that attorneys are not permitted, because of their prejudicial nature. An attorney has violated Rule 3.6 by making extrajudicial statement related to:

"(1) the character, credibility, reputation, or criminal record of a party, suspect in a criminal investigation, or witness, or the identity of a witness, or the expected testimony of a party or witness"

17. Fortman's frequent and malicious derogation of Defendants, its officers, and opposing counsel, and members of the judiciary as evidenced by his comments contained in Paragraphs 2 through 7 demonstrate a pattern of unacceptable conduct patently in violation of the professional mandates of the Missouri Bar Association.

18. Defendants, its officers, opposing counsel, and members of the judiciary have been and will continue to be harmed by the statements of Fortman if they continue unchecked. In addition, the integrity of the judicial process and any hope for a free exchange of information will be destroyed if Fortman is allowed to continue his public diatribe.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was served, by First Class United States Mail, Postage Prepaid, on the following counsel of record this 3rd day of July, 2012:

Jonathan E. Fortman
Law Office of Jonathan E. Fortman, LLC
10 Strecker Road, Suite 1150
Ellisville, MO 63011

W. Christopher McDonough
McDonough Law Firm, LLC
15455 Conway Road, Suite 360
Chesterfield, MO 63017

Kathryn E. Van Voorhees
Law Offices of Kathryn E. Van Voorhees
75 W. Lockwood Avenue, Suite 222
St. Louis, MO 63119

Shannon Lee Cashion
Law Office of Shannon Lee Cashion
7777 Bonhomme Avenue, Suite 1600
St. Louis, MO 63105

Attorneys for Plaintiffs

A handwritten signature in black ink, appearing to read 'JEF', is written over a horizontal line.