IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN P. CARR, et al., Plaintiffs, v. UNITED STATES OF AMERICA, et al., Defendants.	Civil Action No. 3:23-CV-02875-S

DEFENDANTS' OBJECTION TO PLAINTIFF'S "FRCP RULE 60 MOTION FOR SANCTIONS UNDER RULE 11(C)"

Plaintiff Brian P. Carr, pro se, having previously filed two motions for sanctions against former counsel for Defendants, former AUSA George Padis, now files a third raising the same meritless arguments against former AUSA Padis, and new, equally meritless arguments against current counsel, AUSA Tami Parker. (Doc. 83). Plaintiff continues to complain that actions by former counsel for Defendants were undertaken solely for purposes of delay. He further complains that AUSA Parker did not (1) properly confer with him on a previously filed motion for relief under Fed. R. Civ. P. 60 or with respect to Defendants' intentions to file written objections to his motions for post-judgment relief and (2) improperly handle a motion for sanctions against the former AUSA mailed to the United States Attorney's Office. For the reasons set forth below, this motion should be denied.

Relevant Background[1]

After no objections were filed to the Findings, Conclusions and Recommendation of the United States Magistrate Judge, this Court reviewed the report and accepted it, entering judgment in this case on March 21, 2025. (Doc. 63.) Thereafter, Plaintiff, his wife, and his sister-in-law, in English and in Thai, filed a series of post judgment letters to the Court, motions, amended complaints, and motions for sanctions challenging the conduct of counsel for Defendants. (*See generally* Doc. 64-71.) Those motions remain pending.

Plaintiff's first motion for sanctions in this case was filed on May 8, 2024. (Doc. 30.) Plaintiff, who had taken issue with Defendants' motion to dismiss his original complaint filed on March 8, 2024, complained that Padis engaged in "various delaying tactics" to delay the filing of that motion, failed to accurately reflect in that motion the breadth and depth of Plaintiff's challenges to actions of various federal agencies, misrepresented the relief that Plaintiff demanded, and cited cases that Plaintiff believed were not germane to the true issues in this litigation. (*See generally*, *id*.) This motion was rejected procedurally under Rule 11, but on the merits after consideration of Plaintiff's claims under the Court's inherent authority. (Doc. 59.)

While the motion for sanctions was pending, new counsel for the Defendants entered an appearance. (Doc. 27.) Plaintiff engaged in significant motions practice thereafter, filing motions for partial summary judgment (Doc. 49), for leave to file supplemental authority (Doc. 48), to file a second amended complaint (Doc. 49), and for

[1] This Court has already reviewed the merits of this case and entered judgment. (Docs. 59, 60). Moreover, Plaintiff has flooded this action with more than a dozen pleadings since that time which recount the arguments in this case, and in some instances, provide a procedural history. (*See*, *e.g.*, Docs. 67, 70, 71, 73.) Therefore, Defendant is not including a full background section in the instant response and instead presumes this Court is more than sufficiently knowledgeable of this case's history.

expedited consideration. (Doc. 52.) The motion for leave to file an amended complaint, while only about six pages in length, appended two mini-motions exceeding 50 pages each. (Docs. 49-1, 49-2.)

In a series of orders, the Court ruled on the various pending motions and ultimately, on March 21, 2025, dismissed the litigation. (Docs. 53-56, 61.) Undeterred, Plaintiff began filing a series of post-judgment pleadings and motions seeking reconsideration of the decision. (Docs. 64-73.) Counsel for the Defendants informed Carr that while Defendants opposed his motions, counsel would not file written objections. (Doc. 75-1 at PageID 1929.) Based on his reading of the Local Rules, Carr decided that the failure to file a written objection meant that his motions were unopposed. (Doc. 71 at 3-4.)

The undersigned AUSA entered an appearance in this matter on June 13, 2025. Carr emailed the undersigned asking whether Defendants would maintain the position articulated by prior counsel, namely opposing his multitude of motions but not filing a written response. (Doc. 75-1.) The undersigned AUSA has acknowledged that she failed to respond to that email. The Civil Division of the United States Attorney's Office had lost almost half of its attorneys in six months' time, the number of civil cases filed against the United States had increased, and the undersigned had recently stepped into management. As has been explained to Carr, counsel for Defendant simply forgot about the email due to the press of the workload.

With new counsel, Defendants decided that it would undertake filing written objections to at least some of the motions filed by Plaintiff. Plaintiff, however, took issue with this change and with the contents of Defendants' response. As noted, Plaintiff had determined that the failure to file a written objection to his motions meant that the

motions were unopposed, and thus he presumably believed the would be granted on that basis. (Doc. 71 at 3-4.) Plaintiff expressed frustration that Defendant's response to his Rule 60 argued, for the first time, that the Court's adoption of the FCR after the 14-day window for objection had expired was not premature. (Doc. 75 at 14.) He further complained about Defense Counsel's failure to respond to his email regarding how oppositions to his motions would be handled. (*Id*. at 16.) Plaintiff essentially asserts that it was unfair for Defendants to start filing written objections without specifically notifying him they would do so.

On September 27, 2025, Plaintiff filed a second motion for sanctions naming former AUSA Padis and raising essentially the same claims as those raised in the first motion, although adding a claim of alleged collusion between the Court and Padis. (Doc. 83.) Leading up the filing of that motion, Plaintiff emailed a copy of his motion to Defendants and former AUSA Padis. Carr also mailed a copy of the pleading to the U.S. Attorney's Office suggesting the counsel for Defendants could "forward it on." (Doc. 83-1.) After back and forth between Plaintiff and former AUSA Padis, Padis informed Plaintiff that he had received a copy of his motion and would not argue to the contrary. (Doc. 83-1 at PageID 2339.) Counsel for Defendant then explained to Carr that she would take no further action. Although the pleading was sent to the United States Attorney Office, in an ongoing case and seeking sanctions in that case, Carr now complains that counsel's failure to forward his pleading to a person no longer at the U.S. Attorney's Office violated federal criminal law with respect to mail.

Legal Standards

A. Rule 11 Sanctions

Federal Rule of Civil Procedure 11 allows courts to impose sanctions for frivolous

or improper pleadings or motions. Fed. R. Civ. P. 11. The primary determination under Rule 11 is whether the signing individual conducted an inquiry into the factual and legal basis of the challenged document that was objectively reasonable under the circumstances. *See Bus. Guides, Inc. v. Chromatic Commc'ns Enters., Inc.*, 498 U.S. 533, 548-51 (1991). "[A] trial court should not impose Rule 11 sanctions for advocacy of a plausible legal theory, particularly where . . . the law is arguably unclear." *See Snow Ingredients, Inc. v. SnoWizard, Inc.*, 833 F.3d 512, 528 (5th Cir. 2016) (alteration in original) (quoting *CJC Holdings, Inc. v. Wright & Lato, Inc.*, 989 F.2d 791, 793 (5th Cir. 1993)).

B. Statutory Authority for Sanctions[2]

Under 28 U.S.C. § 1972, a court may sanction an attorney who multiplies the proceedings in a case unreasonably and vexatiously. 28. U.S.C. § 1972. Section 1972 authorizes courts to require an offending person to pay the excess costs, expenses, and attorneys' fees reasonably incurred due to the sanctionable conduct. An award under this section requires "evidence of bad faith, improper motive, or reckless disregard of the duty owed to the court." *Lawyers Title Ins. Corp. v. Doubletree Partners, L.P.*, 739 F.3d 848, 871 (5th Cir. 2014) (quoting *Cambridge Toxicology Grp.*, *Inc. v. Exnicios*, 495 F.3d 169, 180 (5th Cir. 2007)). These sanctions are "punitive in nature and require clear and

[2] Plaintiffs cited, 28 U.S.C. § 1972, 18 U.S.C. § 1702, 18 U.S.C. § 1709, and 18 U.S.C. § 1001 as bases for sanctions. However, 18 U.S.C. §§ 1001, 1702 and 1709 are criminal statutes prohibiting false statements made in matters within the jurisdiction of the United States and perjury respectively. These statutes provide no independent authority for a court to issue sanctions in civil matters, and their adjudication is subject to a host of protections and procedural rules afforded to criminal defendants and inapplicable to civil litigation. Additionally, as discussed herein, no false statements were made by counsel for Defendants. For that reason, among many others, no criminal statute has been violated, and these statutes are inapplicable.

convincing evidence that sanctions are justified." *Id.* at 872 (quoting *Bryant v. Military Dep't of Miss.*, 597 F.3d 678, 694 (5th Cir. 2010)). Section 1927 "should be employed 'only in instances evidencing a serious and standard disregard for the orderly process of justice,' lest 'the legitimate zeal of an attorney in representing [a] client [be] dampened.'" *Id*. (quoting *FDIC v. Conner*, 20 F.3d 1376, 1384 (5th Cir. 1991)).

C. Local Rules

A court in the Northern District of Texas may sanction an attorney under Local Rule 83.8(b)(3) for unethical behavior. U.S. Dist. Ct. Rules N.D.T.X., Civil Rule 83.8(b)(3). Unethical behavior is defined as conduct that violates the Texas Disciplinary Rules of Professional Conduct. U.S. Dist. Ct. Rules N.D.T.X., Civil Rule 83.3(e).

Texas Disciplinary Rule of Professional Conduct 4.01 prohibits a lawyer from knowingly making a false statement of material fact or law to a third person. Tex. Disciplinary R. Prof'l Conduct 4.01. Statements of opinion or conjecture do not constitute "material facts" under this Rule. Tex. Disciplinary R. Prof'l Conduct 4.01, cmt. 1. Further, an attorney only violates this rule if the lawyer knows the statements at issue are false and intends thereby to mislead. Tex. Disciplinary R. Prof'l Conduct 4.01, cmt. 2.

Argument

Plaintiff's third motion for sanctions is entirely without merit and vexatious. More than a year prior to filing the instant motion, on May 8, 2024, Plaintiff filed a motion for sanctions that raised essentially the same substantive arguments as the instant motion regarding former counsel for Defendants, George Padis. (Doc. 30). Those arguments were fully briefed. (Doc. 30, 34-5, 35, and 39). The United States Magistrate Judge carefully considered those arguments and, in an opinion, issued on February 26, 2025, rejected them. (Doc. 59.) Plaintiff may disagree with the decision, but he has not and

cannot demonstrate any error. Indeed, his new motion merely rehashes, using more words but citing to no *evidence* in support thereof, the same arguments that have been previously considered and rejected. (*Compare* Doc. 79 with Doc. 30.) As set forth in Defendant's response in opposition to the original motion for sanctions, there simply is no evidence that former AUSA Padis engaged in *any* sanctionable conduct in his representation of the Defendants. (Doc. 35.) Plaintiff's renewed motion for sanctions should be denied for the same reasons set forth in Defendants' response to his initial motion for sanctions, and for the reasons set forth in this Court's decision on that original motion. (Doc. 59.)

Plaintiff's arguments against current counsel similarly lack merit. Plaintiff complains that counsel for Defendant failed to forward mail to a former AUSA, in violation of various criminal laws. But this Court has already explained to Plaintiff that alleged violations of criminal laws do not provided a basis for imposing sanctions in civil cases. (Doc. 59 at 3.) Moreover, Plaintiff has no evidence suggesting that counsel for Defendant filed a frivolous or improper pleading as required for sanctions under Rule 11. He simply surmises that perhaps counsel for Defendant had a nefarious reason for not responding to his email or deciding to address his litany of post-judgment motions. (Doc. 83.)[3] Last, Plaintiff's own evidence makes clear that any delay or failure in forwarding the paper copy of Plaintiff's meritless motion was harmless, as Plaintiff emailed a copy of the pleading to Padis, and Padis informed Plaintiff that he would not assert failure to receive a copy of the motion in any pleading. (Doc. 83-1 at PageID 2339.) Thus, Plaintiff

[3] To the extent Plaintiff believes that his opposed motions become "unopposed," and thus must be granted by this Court, simply because Defendants do not file a written objection, he is wrong. Whether a motion is unopposed, or deemed unopposed, the Court must determine whether the movant is entitled to the relief sought therein. If the movant fails to so entitlement to relief, the motion should be denied. Such is the case for each of Plaintiff's post-judgment motions in this case.

cannot demonstrate that any actions on the part of counsel for Defendant multiplied the proceedings in a case unreasonably and vexatiously, 28. U.S.C. § 1972, or interjected any delay in this matter.

Conclusion

Plaintiff has become a vexatious litigant, filling the docket of this case with meritless motions. His third motion for sanctions should be denied.

Respectfully submitted,

NANCY E. LARSON
ACTING UNITED STATES ATTORNEY

s/ Tami C. Parker
Tami C. Parker
Assistant United States Attorney
801 Cherry Street, Suite 1700
Fort Worth, Texas 76102
Texas Bar No. 24003946
Telephone: 817-252-5200
Facsimile: 817-252-5458
Email: tami.parker@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

On October 29, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I also hereby certify that on this same date, the foregoing document was served via U.S. mail to the Plaintiff, pro se, listed below:

s/ Tami C. Parker
Tami C. Parker