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United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RONALD PALMER and CAROL PALMER,
Plaintiffs,
v.
PNEUMO ABEX, LLC, et al.,
Defendants

No. C-10-0712 MMC

**ORDER DENYING PLAINTIFFS' MOTION
FOR RULE 11 SANCTIONS OR FOR
ISSUANCE OF ORDER TO SHOW
CAUSE; VACATING HEARING**

Before the Court is the "Motion for Rule 11 Sanctions, or in the Alternative for Issuance [of] Order to Show Cause Re Sanctions for Defense Counsel's Violation of Rule 11 in Relation to Its Improper Removal," filed February 26, 2010 by plaintiffs Ronald and Carol Palmer. Defendant Pneumo Abex LLC ("Abex") has filed opposition, to which plaintiffs have replied. Having read and considered the papers filed in support of and in opposition to the motion, the Court deems the matter suitable for determination on the parties' respective written submissions, VACATES the hearing scheduled for March 19, 2010, and rules as follows.

To the extent the motion seeks an award of sanctions under Rule 11, the motion is procedurally deficient, for the reason that plaintiffs did not comply with the requirement that they wait to file the motion until after twenty-one days had elapsed following the date on

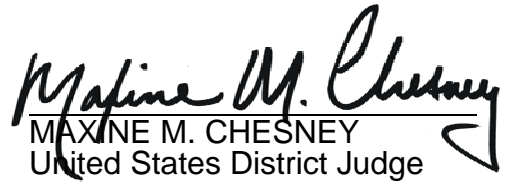
1 which the motion was served on defendants. See Fed. R. Civ. P. 11(c)(2).¹

2 To the extent the motion requests that the Court, on its own motion, direct Abex to
3 show cause why it should not be sanctioned under Rule 11, see Fed. R. Civ. P. 11(c)(3),
4 the Court declines to issue such an order, for the reason that it does not appear from the
5 record before the Court that the notice of removal was filed for an improper purpose, was
6 frivolous, or that the statements therein lacked any evidentiary support, see Fed. R. Civ. P.
7 11(b).

8 Accordingly, the motion is hereby DENIED.

9 **IT IS SO ORDERED.**

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11 Dated: March 18, 2010

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MAXINE M. CHESNEY
United States District Judge

¹In their reply, plaintiffs argue they should be relieved from the requirement set forth in Rule 11(c)(2), for the asserted reason that neither the Clerk of the Court nor this Court rescheduled the hearing on the motion for sanctions to a later date. The Court disagrees. The date on which the motion for sanctions is scheduled for hearing is irrelevant to the issue of whether, before it was filed, it had been served on defendants at least twenty-one days earlier.