

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

BERRY LYNN ADAMS,	)	Case No.: 10-CV-00602-LHK
	)	
Plaintiff,	)	ORDER DENYING MOTION FOR
v.	)	SANCTIONS
	)	
DANIEL L. KRAFT, a State of California Park	)	
Ranger, et al.,	)	
	)	
Defendants.	)	

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Plaintiff filed a complaint pursuant to 42 U.S.C. § 1983 alleging that several State of California Park Rangers violated his civil rights in a series of incidents. Three motions are currently before the court: Plaintiff’s motion for leave to amend, Defendants’ motion for judgment on the pleadings, and Defendants’ motion for sanctions. This Order deals only with the motion for sanctions. The Court addresses Defendants’ remaining two motions in a concurrently-filed Order granting Plaintiff’s motion for leave to amend and denying as moot Defendants’ motion for judgment on the pleadings. Pursuant to Civil Local Rule 7-1(b), the Court deems Defendants’ motion for sanctions appropriate for resolution without oral argument. For the reasons discussed below, Defendants’ motion for sanctions is DENIED.

1 **I. BACKGROUND**

2 The Court’s concurrently-filed Order granting leave to amend describes the full background  
3 of this case. This Order summarizes only the relevant background for purposes of ruling on the  
4 motion for sanctions.

5 Plaintiff’s original attorney, M. Van Smith, filed the initial complaint on February 10, 2010.  
6 On June 9, 2010, Plaintiff submitted a motion to substitute Attorney Kate Wells in for Smith. Dkt.  
7 No. 42. The Honorable James Ware granted this substitution on July 19, 2010. Dkt. No. 53.  
8 While the motion to substitute counsel was pending, Ms. Wells informed Defendants’ counsel that  
9 she intended to file a motion to amend the complaint to address aspects of the complaint addressed  
10 in Defendants’ yet-to-be-filed motions for sanctions and for judgment on the pleadings. *See* Pl.’s  
11 Opp’n to Mot. for Sanctions at 1-2 [Dkt. #70]. Defendants served their motion for sanctions on  
12 June 25, 2010, but had not yet filed it with the Court. Dkt. No. 55, Ex. G. The parties agreed on a  
13 deadline of July 30, 2010 for Plaintiff to prepare a Proposed First Amended Complaint for  
14 Defendants’ review. Decl. of Kate Wells at ¶ 5 [Dkt. #70]. Despite that agreement, Defendants  
15 filed the motion for judgment on the pleadings on July 14, 2010, but waited until July 30, 2010 to  
16 file the motion for sanctions. Dkt. Nos. 51, 55. Plaintiff had sent a Proposed First Amended  
17 Complaint to Defendant on July 29, 2010.

18 Defendants’ motion for sanctions addresses only the parts of the complaint related to  
19 Defendants Superintendent Kirk Lingenfelter and Sergeant K.P. Best. *See* Defs.’ Mot. for  
20 Sanctions at 1 [Dkt. #55]. Plaintiff’s complaint alleges an agreement between Superintendent  
21 Lingenfelter, Sergeant Best, and the other State Park Ranger Defendants to falsely charge Plaintiff  
22 with a crime based on an alleged threat of physical harm directed against Plaintiff’s former friend,  
23 Greg Inloes. *See* Compl. at ¶¶ 14-17 [Dkt. #1], Proposed First Am. Compl. (“PFAC”) at ¶ 19  
24 [Dkt. #68]. Plaintiff alleges that the State Park Rangers singled Plaintiff out for harassment based  
25 on his public criticism of the State Park Rangers. Plaintiff also alleges that Superintendent  
26 Lingenfelter and Sergeant Best wrote letters to the Santa Cruz County District Attorney stating that  
27 Plaintiff was a “intimidating presence” and created multiple “public disturbances.” Compl. at  
28 ¶¶ 19-21, PFAC at ¶¶ 6, 21. Plaintiff alleges that Superintendent Lingenfelter failed to prevent

1 selective enforcement of the law against Plaintiff by the other Defendants in this case. Compl. at  
2 ¶ 23, PFAC at ¶ 8. Finally, Plaintiff’s original complaint claimed unlawful arrest by several of the  
3 Defendants, including Superintendent Lingenfelter and Sergeant Best. Compl. at ¶ 30. In the  
4 PFAC, Plaintiff’s counsel attempts to clarify this allegation by alleging that Superintendent  
5 Lingenfelter and Sergeant Best were involved in a supervisory capacity, and further alleging that  
6 they failed to train and supervise the other defendants appropriately. PFAC at ¶¶ 35, 45-47.

## 7 II. LEGAL FRAMEWORK

8 “Rule 11 requires the imposition of sanctions when a motion is frivolous, legally  
9 unreasonable, or without factual foundation, or is brought for an improper purpose.” *Conn v.*  
10 *Borjorquez*, 967 F.2d 1418, 1420 (9th Cir. 1992). “The central purpose of Rule 11 is to deter  
11 baseless filings . . . [and] Rule 11 imposes a duty on attorneys to certify that they have conducted a  
12 reasonable inquiry and have determined that any papers filed with the court are well-grounded in  
13 fact, legally tenable, and not interposed for some improper purpose.” *U.S. ex rel. Robinson*  
14 *Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 254 (9th Cir. 1992) (quoting *Cooter &*  
15 *Gell v. Hartmarx Corp.*, 496 U.S. 384 (1990)). An “improper purpose” is a purpose to “harass or  
16 to cause unnecessary delay or needless increase in the cost of litigation.” Fed. R. Civ. P. 11(b)(1).  
17 The test for improper purpose is an objective one. *G.C. and K.B. Invs., Inc. v. Wilson*, 326 F.3d  
18 1096, 1109 (9th Cir. 2003).

19 Courts also use an objective standard to address the other conditions for Rule 11 sanctions  
20 by looking to whether a reasonable basis for the challenged position existed in law and fact at the  
21 time the position was adopted. *Conn*, 967 F.2d at 1421; *see also Bus. Guides, Inc. v. Chromatic*  
22 *Commc’ns Enters., Inc.*, 498 U.S. 533, 554 (1991) (establishing the “objective standard of  
23 reasonable inquiry” imposed by Rule 11). In determining whether an objectively reasonable basis  
24 exists, whether the pleader is correct in his perception of the law is not critical. *Conn*, 967 F.2d at  
25 1421. Thus, if a court finds that counsel made a reasonably arguable claim at the time of filing the  
26 complaint, it should not apply Rule 11 sanctions.

1 **III. DISCUSSION**

2 Defendants argue that the complaint’s claims against Defendants Superintendent  
3 Lingenfelter and Sergeant Best: 1) lack evidentiary support; 2) are not warranted by existing law;  
4 and 3) were filed for an improper purpose. *See* Defs.’ Mot. for Sanctions at 1. Defendants seek  
5 sanctions against Plaintiff personally, as well as against both his counsel, Attorneys Smith and  
6 Wells. *Id.*

7 The Court does not agree that the alleged deficiencies of the complaint rise to the level of  
8 sanctions, especially considering that Rule 11 is an “extraordinary remedy . . . to be exercised with  
9 extreme caution.” *See Conn*, 967 F.2d at 1421; *see also Hudson v. Moore Bus. Forms, Inc.*, 836  
10 F.2d 1156, 1159 (9th Cir. 1987) (“ultimate failure on the merits” is irrelevant in a Rule 11  
11 sanctions inquiry). Although Plaintiff’s original complaint is poorly organized and confusing at  
12 points, it does allege that Superintendent Lingenfelter and Sergeant Best were either involved with  
13 or knew of at least some of the ongoing activities allegedly in violation of Plaintiff’s civil rights,  
14 and failed to prevent them. Compl. at ¶¶ 14-17, 19-21, 23. Although there is no respondeat  
15 superior liability under § 1983, supervisors may still be liable for failing to prevent certain  
16 unlawful conduct. *See Preschooler II v. Clark County Sch. Bd. of Trustees*, 479 F.3d 1175, 1183  
17 (9th Cir. 2007) (finding supervisory liability where the supervisor “participated in or directed the  
18 violations, or knew of the violations and failed to act to prevent them” despite also holding that  
19 there is no respondeat superior liability under § 1983) (quoting *Taylor v. List*, 880 F.2d 1040, 1045  
20 (9th Cir. 1989)). Interpreted in the light most favorable to Plaintiff, the original complaint does  
21 seem to allege a legally cognizable theory of supervisory liability.

22 On July 7, 2010, Plaintiff’s counsel, Ms. Wells, notified Defendants’ counsel that Plaintiff  
23 would amend his complaint to clarify the exact allegations Defendants’ claimed were insufficient  
24 as to Defendants Superintendent Lingenfelter and Sergeant Best. The PFAC clarifies that  
25 Plaintiff’s claims against Superintendent Lingenfelter and Sergeant Best are based on their failure  
26 to prevent unlawful conduct and failure to train and supervise the subordinate State Park Rangers.  
27 *See* PFAC at ¶¶ 45-47 (clarifying claims against Superintendent Lingenfelter and Sergeant Best).  
28 Even though Defendants had agreed to allow Plaintiff until July 30, 2010 to submit an amended

1 complaint, Defendants still chose to bring a motion for judgment on the pleadings as to the original  
2 complaint on July 14, 2010. While Defendants have made clear that they disagree with Plaintiff on  
3 the facts of the case, Plaintiff's original complaint is not so "devoid of any plausible foundation"  
4 that it rises to the level of sanctions. *Hudson*, 836 F.2d at 1161. At worst, Plaintiff may have  
5 failed to state a claim.<sup>1</sup>

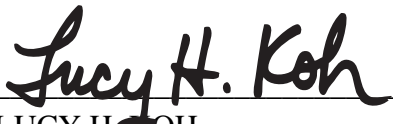
6 Thus, the Court finds that the actions of Plaintiff and his counsel do not merit the heavy  
7 hammer of sanctions. Rather, the potential deficiencies highlighted by Defendants are more  
8 appropriately raised in a motion to dismiss.

9 **IV. CONCLUSION**

10 Accordingly, Defendants' motion for sanctions is DENIED. The December 2, 2010 hearing  
11 on Defendants' motion for sanctions is vacated. The Case Management Conference scheduled for  
12 December 2, 2010 at 1:30 p.m. remains as set.

13 **IT IS SO ORDERED.**

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15 Dated: November 30, 2010

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18 LUCY H. KOH  
19 United States District Judge

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26 <sup>1</sup> The Court will not rule on the legal sufficiency of Plaintiff's PFAC at this stage. As stated in the  
27 Court's Order granting Plaintiff's motion for leave to amend his complaint, the legal sufficiency of  
28 Plaintiff's PFAC will be "more appropriately raised in a motion to dismiss." *See Stearns v. Select  
Comfort Retail Corp.*, 2010 U.S. Dist. LEXIS 84777, \*68 (N.D. Cal. July 21, 2010) (Fogel, J.)  
(citing William W. Schwarzer, et al., CAL. PRAC. GUIDE: FED. CIV. PROC. BEFORE TRIAL §  
8:422).