

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Richard P. Matsch**

Civil Action No. 14-cv-00105-RPM

DAVID M. FRANCO,

Plaintiff,

v.

LARRY NEALY,
INTREPID, LLC, a Colorado Limited Liability Company,
JAMES M. JACOBSEN,
BEARING CONSULTING GROUP, LLC, a Texas
Limited Liability Company,

Defendants.

ORDER DENYING MOTION FOR SANCTIONS

A final judgment dismissing defendants James M. Jacobsen and Bearing Consulting Group, LLC. from this civil action was entered on July 22, 2015, pursuant to this Court's Memorandum and Order granting summary judgment entered on that date. The dismissed defendants filed a motion for sanctions on September 1, 2015. They seek attorney fees and expenses under Fed. R. Civ. P. 11(c)(4) and 28 U.S.C.A. § 1927.

Rule 11(c)(2) requires the service of a motion for sanctions at least 21 days before filing to give the opposing party an opportunity to withdraw or correct the pleading alleged to be in violation of the provisions of Rule 11(b). The defendants did not comply with that requirement.

Pursuing a claim that ultimately cannot be supported by evidence is not a violation of 28 U.S.C.A. § 1927.

Accordingly, it is ORDERED that the Motion for Sanctions, Doc. 64, is DENIED.

DATED: October 16, 2015

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch
Senior District Judge