

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

SOUTHERN SNOW MANUFACTURING CO., INC. CIVIL ACTION NO. 06-9170
09-3394
10-0791
11-0880
11-1499

VERSUS

SNOWIZARD HOLDINGS, INC. ET AL SECTION: "G" (1)

ORDER AND REASONS

Before the Court is SnowWizard, Inc. and Ronald R. Sciortino's Motion for Sanctions Pursuant to Rule 11 (Ref: 11-1499) "on the grounds that plaintiffs and their counsel have presented to the Court a 'Complaint' (11-1499), (Rec. Doc. 1) purporting to set forth claims against defendants under the Racketeering Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1891 *et seq.*,"¹ which they assert "manifestly are not warranted by existing law or by any nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law insofar as no reasonable attorney would believe that the alleged acts of defendants sued upon were capable of satisfying the predicate act requirements of RICO, and that the allegations, purported RICO claims and other purported counts therein, are being presented to harass and retaliate against defendants, to cause unnecessary delay in this and other pending litigation involving defendants, and to needlessly increase the cost to defendants of this and the other pending litigation."² Plaintiff filed an Opposition to SnowWizard's Motion for Sanctions,³ wherein it attempts to demonstrate the lack of frivolousness in the filing of its RICO claim by presenting the facts, evidence and law they

¹ Rec. Doc. 410.

² *Id.*

³ Rec. Doc. 421.

believe support the claim.⁴ SnoWizard, in a pleading styled, “Reply Memorandum in Support of SnoWizard Inc. and Ronald R. Sciortino’s Motion for Sanctions Pursuant to Rule 11 and Motion to Dismiss Alleged RICO Claims Under Rule 12(b)(6) (Ref: 11-1499)⁵ attempts to distinguish the facts and authorities cited by Defendant in their Opposition to SnoWizard, Inc. and Ronald R. Sciortino’s Motion for Sanctions Pursuant to Rule 11 (Ref: 11-1499). Having considered the motion, the opposition, the reply, the record, and the applicable law, the Court will deny SnoWizard Inc. and Ronald R. Sciortino’s Motion for Sanctions Pursuant to Rule 11 (Ref. 11-1499) without prejudice.

Considering the disputed facts and law contained in the pleadings regarding the Rule 11 motion addressing the alleged frivolousness of respondent’s RICO claim, the Court cannot at this time, and especially in light of the pending motion to dismiss the RICO claim, determine that the RICO claims are, as SnoWizard puts it, “manifestly” unwarranted “by existing law or by any nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law” and that “no reasonable attorney would believe that the alleged acts of defendants sued upon were capable of satisfying the predicate act requirement of RICO.”

Further, upon review of the entire docket and record in the consolidated matter, it would be premature for this Court to conclude that respondent’s motive in filing this claim is to “harass and retaliate against defendants” and “cause unnecessary delay in this and other pending litigation involving defendants.” The totality of the circumstances viewed by this Court demonstrates that there is enough animosity among all of the parties to go around.

⁴ Rec. Doc. 421.

⁵ Rec. Doc. 446.

In the interest of encouraging professionalism and civility, this Court will hereby deny, without prejudice, SnoWizard, Inc. and Ronald R. Sciortino's Motion for Sanctions Pursuant to Rule 11 (Ref: 11-1499).

New Orleans, Louisiana, this 21st day of September, 2012.

Nannette Jolivette Brown
NANNETTE JOLIVETTE BROWN
UNITED STATES DISTRICT JUDGE