

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

2002 JBO TRUST NO. 1, ET AL.

CIVIL ACTION

VERSUS

NO. 12-1282

AMERICAN EXPRESS CO, ET AL.

SECTION "L" (3)

ORDER

The Court has received Defendants American Express Tax and Business Services, Inc., d/b/a RSM McGladery, LLC, Robert Goldstein, and Kurt Anderson's Motion to Dismiss (Rec. Doc. 36) and Motion for Sanctions (Rec. Doc. 37).

The Court has received no opposition to the Motion to Dismiss. Accordingly, this motion is deemed to be unopposed, and furthermore, it appearing to the Court that the motion is grounded in law and fact, IT IS ORDERED that Defendants' Motion to Dismiss (Rec. Doc. 36) is GRANTED. Plaintiffs' claims against American Express Tax and Business Services, Inc., d/b/a RSM McGladery, LLC, Robert Goldstein, and Kurt Anderson are DISMISSED WITH PREJUDICE.

Plaintiffs' former counsel opposes the Motion for Sanctions. The Court has reviewed the briefs and concludes that sanctions are not warranted in this case. In support of their Motion for Sanctions, Defendants argue Plaintiffs' claims are clearly meritless under controlling Fifth Circuit precedent. In opposition to Defendants' motion, however, Plaintiffs' former counsel raises several arguments in favor of distinguishing this case. Plaintiffs' arguments may not have prevailed had the parties fully briefed and argued Defendants' motion to dismiss; nonetheless,

they are sufficiently non-frivolous for the Court to decline to sanction Plaintiffs' former counsel. Although Defendants correctly point out that the Rule 11 requirement of reasonable inquiry is particularly important in the context of RICO claims, they have not shown sufficiently serious misconduct to justify sanctions in this case.

Accordingly, IT IS FURTHER ORDERED that Defendants' motion for sanctions (Rec. Doc. 37) is DENIED.

New Orleans, Louisiana, this 20th day of February, 2013.


UNITED STATES DISTRICT JUDGE