

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

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RICHARD BREUNINGER et al. an individual;
and ITGA, LLC, an Arizona corporation

20 Civ. 7033 (JPC) (RWL)

Plaintiffs,

-against-

T. Edward Williams, Esq., an individual, and
PEYROT AND ASSOCIATES, P.C., a New
York professional corporation

Defendants and counterclaim Plaintiff

v.

RICHARD BREUNINGER, an individual; and
ITGA, LLC, an Arizona limited liability
company

Counterclaim Defendants

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**DEFENDANTS T. EDWARD WILLIAMS AND JANE DOE WILLIAMS
NOTICE OF MOTION FOR ATTORNEY'S FEES AND COSTS
UNDER FED. R. CIV. P. 11**

PLEASE TAKE NOTICE that upon the Memorandum of Law dated 10 March 2025, the Report and Recommendation ("R&R") dated 10 February 2025, and the record before this Court, T. Edward Williams, Esq. and Jane Doe Williams ("the Williams Party") will move this Honorable Court, before the Honorable John Paul Cronan, at the United States District Court for the Southern District of New York, at the courthouse located at Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York, New York 10007, for an Order:

- (i) Pursuant to Fed. R. Civ. P. 11, granting Williams Party's motion for sanctions against Plaintiffs, Richard Breuninger, ITGA LLC, and their attorney, Mick Levin,

Esq. and Mick Levin PLC;

(ii) pursuant to Fed. R. Civ. P. 11, imposing appropriate sanction on Plaintiffs, Richard Breuninger, ITGA LLC, and their counsel, Mick Levin, Esq., and Mick Levin PLC, jointly and severally; and

(iii) granting the Attorney Defendants such other and further relief as the Court deems just, proper and equitable.

PLEASE TAKE FURTHER NOTICE that, pursuant to Fed. R. Civ. P. 6 and Local Rule 6.1(b), any opposing affidavit(s) and answering memorandum shall be served within fourteen (14) days after service of the moving papers, and reply affidavits or memorandum of law, shall be served seven (7) days after service of the answering papers.

Dated: New York, New York
10 March 2025

WILLIAMS LLP

/s/ T. Edward Willaims, Esq.
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To: All Appearing Parties (*via ECF Only*)

The Court's Individual Civil Rule 6.A provides that a party seeking to file a motion must generally file a pre-motion letter "notifying the Court of its anticipated motion, summarizing the basis for the anticipated motion, and proposing a briefing schedule." Individual Rule 6.A affords an exception for motions "previously authorized by the Court," and Mr. Williams's March 8, 2025 Letter, Dkt. 404, indicates that "Judge Lehrburger has previously granted [Williams] leave to seek sanctions under Fed. R. Civ. P. 11."

Judge Lehrburger did not grant Williams leave to file a motion for sanctions under Rule 11. Judge Lehrburger's May 24, 2024 Order, Dkt. 290, stated that a determination of whether sanctions under Rule 11 and 18 U.S.C. § 1927 were appropriate was "premature and [any such motion] shall not be filed unless and until the case is disposed of in Defendant Williams' favor either on summary judgment, trial, or other disposition. Accordingly, the requests for leave are DENIED WITHOUT PREJUDICE to renew at the appropriate time. Any Rule 11 sanctions motion must be preceded by the notice procedure required by that Rule. Defendant Williams can serve the requisite Rule 11 notice at any time; he need not await disposition of the case to serve the notice." Dkt. 290.

As clearly set forth in the above order, Judge Lehrburger denied leave to file either a motion for sanctions under Rule 11 or Section 1927 without prejudice to renewal at the appropriate time. Williams has therefore not been granted leave of Court to move under Rule 11, and, as such, must comply with both the notice requirements of Rule 11(b) and the Court's typical procedure for motions practice set forth in Individual Civil Rule 6.A.

The instant motion is therefore denied without prejudice for failing to comply with the Court's Individual Rules. Mr. Williams will be afforded an opportunity to request leave of Court for any anticipated sanctions motions at the March 28, 2025 in-person conference in this matter, provided Rule 11's notice requirement has been satisfied.

The Clerk of Court is respectfully directed to close Docket Number 406.

SO ORDERED.

Date: March 12, 2025

New York, New York

A handwritten signature in black ink, appearing to read "John P. Cronan", is written over a horizontal line.

JOHN P. CRONAN
United States District Judge