

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

| | | |
|-------------------------------|---|-------------------------------|
| CRAIG CUNNINGHAM, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 3:15-cv-00215 |
| |) | Judge Sharp/Knowles |
| KATHY MCDONALD et al., |) | |
| |) | |
| Defendants. |) | |

REPORT AND RECOMMENDATION

This matter is before the Court upon a document filed by Plaintiff headed “Plaintiff’s Motion for Sanctions per Rule 11.” Docket No. 58. Plaintiff avers that a Declaration filed by Defendant Kathy McDonald (Docket No. 39-1) contains a number of false statements.

Initially, the Court notes that Plaintiff has not filed a supporting memorandum of law as required by Local Rule 7.01(a).

Additionally, Fed. R. Civ. P. 11(c)(2) provides in relevant part:

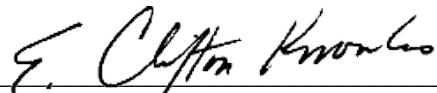
(2) Motion for Sanctions. A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets.

Plaintiff has made no effort to show that he complied with the “safe harbor” provision of Rule 11.

Finally, the Declaration at issue was submitted in support of a Motion to Dismiss filed by Defendants. Docket No. 39, 39-1. The Court has recently denied that Motion to Dismiss. Docket No. 71.

For the foregoing reasons, the instant Motion (Docket No. 58) should be DENIED.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days after service of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have fourteen (14) days after service of any objections filed to this Report in which to file any response to said objections. Failure to file specific objections within fourteen (14) days of service of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *See Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L. Ed. 2d 435 (1985), *reh'g denied*, 474 U.S. 1111 (1986); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72.



E. CLIFTON KNOWLES
United States Magistrate Judge