

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

**EOD**  
06/16/2023

**IN RE:** §  
§  
**ETTEKA E. AKANG** § Case No. 19-40150  
§  
Debtor § Chapter 7

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CHARITY C. EBIZIE §  
§  
Plaintiff §  
§  
v. § Adversary No. 21-04114  
§  
ETTEKA EMANNUEL AKANG, §  
CHRISTINE JANEAR AKANG, §  
CHRISTINA “CHRISTY” EKAM, §  
EDIFICE CONTRACTOR’S LLC §  
§  
Defendants §

**ORDER DENYING PLAINTIFF, CHARITY C. EBIZIE’S MOTION FOR SANCTIONS**

Before the Court for consideration is the “Motion for Sanctions” (the “Sanctions Motion”) filed by Plaintiff, Charity C. Ebizie (the “Plaintiff”) on May 17, 2023. Plaintiff seeks sanctions under Fed. R. Bankr. P. 9011 against the Defendant, Etteka Emmanuel Akang (the “Defendant”) and Defendant’s Counsel, Daniel Herrin (the “Defendant’s Counsel”), for “abuse of process pursuant to Local Rule of Bankruptcy Procedure 9011-1, Fed. Bank. R. 9011, Fed. R. of Civ. P. 11, Fed. R. of Civ P. 26(a)(C), and Fed. R. Bankr. P. 7026.”<sup>1</sup> The Court finds that the Sanctions Motion was properly served pursuant to the

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<sup>1</sup> Sanctions Mot., 2, ECF No. 60.

Federal and Local Rules of Bankruptcy Procedure and that it contained inappropriate twenty-one (21)-day negative notice language rather than fourteen (14) day language pursuant to LBR 7007.<sup>2</sup> Despite this error, no prejudice resulted to Defendant and the Court finds Defendant and Defendant’s Counsel timely objected. Consideration and resolution of the Sanctions Motion would not be aided by oral argument.

Fed. R. Bankr. P. 9011 is “substantially identical” to the Fed. R. Civ. P. 11, thus, courts frequently reference Rule 11 jurisprudence in considering sanctions under Rule 9011. *In re Enmon*, No. 12-10268, 2013 WL 494049, at \*3 (Bankr. E.D. Tex. Feb. 7, 2013) (citing *Cadle Co. v. Pratt (In re Pratt)*, 524 F.3d 580, 586 n.19 (5th Cir. 2008)). “The central goal of Rule 11 is to deter abusive litigation practices.” *Enmon*, 2013 WL 494049, at \*3 (quoting *Corley v. Rosewood Care Ctr., Inc.*, 388 F.3d 990, 1013 (7th Cir. 2004)). Rule 11 sanctions may be granted for: (1) improper purpose, (2) harassment or unnecessary delays in litigation, or (3) implausible defenses under existing or potential future law. *F.D.I.C. v. Maxxam, Inc.*, 523 F.3d 566, 581 (5th Cir. 2008). Courts use an objective test for determining sanctions. *Id.* Litigation meant to harass or increase costs warrants sanctions, regardless of the merits of the case. *Id.* at 585. To determine whether a party pursued an illegitimate purpose to increase costs or to harass a party, regardless of the weight of purpose in filing a suit, the Fifth Circuit has looked to identify unusual

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<sup>2</sup> LBR 7007 requires use of fourteen (14) day negative notice language for motion practice in adversary proceedings, except for a few exceptions not relevant here. Outside of an adversary proceeding in a contested matter, a sanctions motion should indeed contain twenty-one (21) day negative notice language. See this Court’s *Guide to Practice and Procedures*.

circumstances which show such purposes. *Id.* Courts must look at “objectively ascertainable circumstances,” such as excessive filing, “rather than subjective intent.” *Id.* at 586.

Plaintiff complains that Defendant and Defendant’s Counsel allegedly “fail[ed] to comply with the Rule 26(a)(C) deadline set by this court and [] violat[ed] Rule 11 by filing two (2) written Motions for Sanctions for the improper purpose of harassing and intimidating Plaintiff and her counsel, to increase the cost of the litigation and to hide their own naked transgressions.”<sup>3</sup> The motions to which Plaintiff refers are two prior sanctions motions filed by Defendant, Etteka Emmanuel Akang. The first of these was filed early in the case.<sup>4</sup> After Plaintiff filed an objection,<sup>5</sup> this first sanctions motion was denied by the Court.<sup>6</sup> Recently, Defendant filed a second sanctions motion against Plaintiff and Plaintiff’s counsel.<sup>7</sup> Following a hearing on Defendant’s second sanctions motion, the Court denied the second sanctions motion as well.<sup>8</sup>

Defendant objects to Plaintiff’s Sanctions Motion, stating that denial is appropriate because Plaintiff’s Sanctions Motion was filed “in retaliation [for] Defendant’s motions

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<sup>3</sup> *Id.*

<sup>4</sup> ECF No. 21.

<sup>5</sup> ECF No. 27.

<sup>6</sup> Ord. Denying Sanctions, ECF No. 33.

<sup>7</sup> ECF No. 58.

<sup>8</sup> *See* ECF No. 67.

for sanctions.”<sup>9</sup> The Court agrees, and has little patience for multiple dueling sanctions motions filed in lieu of civil conversations between attorneys concerning the merits of a proceeding. Counsel are reminded that District Court Local Rule AT-3 and the standard for attorney conduct contained therein, has been adopted by this Court pursuant to LBR 1001(i). Included in that rule is the following: “[e]ffective advocacy does not require antagonistic or obnoxious behavior, and members of the bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect.” District Court Local Rule AT-3(k).

Accordingly, based upon a careful review of the Sanctions Motion, the objection, the docket, and pertinent legal standards, the Court finds that just cause exists for entry of the following order.

**IT IS THEREFORE ORDERED** that the “Motion for Sanctions Pursuant” filed by the Plaintiff, Charity C. Ebizie, is **DENIED**.

Signed on 06/16/2023



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THE HONORABLE JOSHUA P. SEARCY  
UNITED STATES BANKRUPTCY JUDGE

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<sup>9</sup> Def.’s Obj., 1, ¶ 1, ECF No. 66.