UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BRET D. LANDRITH,	)	
SAMUEL K. LIPARI	)	
Plaintiffs,	)	
	)	
vs.	)	**Civil Action No. 12-cv-01916-ABJ**
	)	
Hon. JOHN G. ROBERTS, JR.,	)	
Chief Justice of the United States	)	
	)	
Defendant.	)	
	)	

DEFENDANT'S OPPOSITION TO PLAINTIFFS'
FED. R. CIV. P. 11 MOTION FOR SANCTIONS

I. INTRODUCTION

On May 23, 2013, Plaintiffs filed a Motion for Sanctions against Defendant, John G. Roberts, pursuant to Fed. R. Civ. P. 11(b). ECF No. 18, ¶ 1. Plaintiffs allege that Defendant and his attorneys knowingly made misrepresentations in Defendant's initial Motion to Dismiss [ECF No. 9] and in Defendant's Renewed Motion to Dismiss as Supplemented [ECF No. 14] relating to Plaintiffs' legal and factual claims. *Id.*at ¶ 3. Plaintiffs have had their chance to object to the alleged misrepresentations in their Opposition to Defendant's Renewed Motion to Dismiss. *See* ECF No. 15. Their efforts to lend additional wait to their arguments, by disparaging Defendant and Defendant's counsel in the instant motion, should be rejected. To the extent that Plaintiffs' representations were misunderstood by Defendant's counsel, it was due to the rambling, confusing, and, at times, incomprehensible nature of those arguments. In Defendant's dispositive motions, ECF Nos. 9 and 14, and its Defendant's reply, ECF No. 16, undersigned counsel have attempted to set forth Plaintiffs' representations in a cogent manner and then

defend against them in good faith. This effort is plainly not grounds for sanctions under Fed. R. Civ. P. 11(b). Accordingly, Plaintiffs' Motion for Sanctions should be denied.

II. FACTUAL AND PROCEDURAL BACKGROUND

Plaintiffs are private citizens who have litigated unsuccessfully several matters in Kansas and Missouri, some of which have been in the federal court system. *See e.g.*, ECF 1 (Complaint) at ¶¶ 25, 39, 45, 48, 49; ECF No. 11 (First Amended Complaint) at ¶¶ 25, 39, 45, 48, 49.

On November 26, 2012, they filed a Complaint in this Court against the Chief Justice, alleging that he had the legal obligation as administrative head of the Judicial Conference of the United States to solve problems in the federal judicial system that they have allegedly encountered. ECF No. 1. For example, they sought injunctive relief against the Chief Justice to:

> stop federal court judges from unlawfully furthering a Code of Silence through ineffective judicial ethics enforcement and ineffective appellate review as a regular and widespread practice to ignore and stop redress for the participation of federal judges with state officials in violation of 18 U.S.C. §§241, 242 and 245.

ECF No. 1 at ¶ 12; *see also* ECF No. 11 (First Amended Complaint) at ¶ 12. They perceive the Chief Justice to be "like a Walmart store manager" at a store with widespread problems. They assert that in the federal judiciary there are:

> [w]idespread policies continued under Chief Justice Hon. JOHN G. ROBERTS, JR. [that] are the equivalent of a Walmart store manager permitting department heads and their employees themselves to shoplift, embezzle, and injure its customers to the point that the store's ability to serve the community or its shareholders is threatened.

Id. at ¶¶ 72-73; ECF No. 1 at ¶¶ 72-73. They have argued that the Chief Justice's "negligence" in protecting them from injury is manifested in the alleged "widespread practice of federal judges to write memorandums and order [of dismissal]" under Fed. R. Civ. P. Rule 12(b)(6), ECF No. 1 at 21 (Count I); that the Chief Justice is "liable to [them] for prospective injunctive relief restraining [the federal judiciary by the use of] his ministerial and executive administration of the

Judicial Conference of the United States," *id.* at 22-23; and they are entitled to "declaratory relief" from this Court so that the Chief Justice takes steps to resolve the problems they perceive. *Id.* at 25-26 (Count II); *see also* ECF No. 11 at 40-41 (Count I), 42-43 and 48.

Defendant has filed two dispositive motions - an initial Motion to Dismiss in response to the Plaintiff's First Complaint and a Renewed Motion to Dismiss in response to Plaintiffs' First Amended Complaint. ECF No. 9 and 14. Plaintiffs have taken umbrage with the arguments presented by Defendant in these filings in their motion for sanction. Specifically, Plaintiffs argue that Defendant's interpretation of the case law relied on by Plaintiffs is incorrect [ECF No. 18 at ¶¶ 3-5], that Defendant's argument that Plaintiffs have suffered no "injury-in-fact" from any action of the Chief Justice has no merit [*id.* at ¶ 6], and that Defendant has misrepresented the relief that they seek. *Id.* at ¶ 7 and ¶ 8. Plaintiffs have had the opportunity to address each of these arguments in their response to Defendant's renewed dispositive motion. *See* ECF No. 14, 15, 16. That motion is fully briefed and awaiting this Court's decision.

Indeed, with the exception of disagreeing with Plaintiffs' interpretation of the impact on their action of *McBryde v. Committee to Rev. Cir. Council Conduct,* 83 F.Supp.2d 135, 149 (D.D.C. 1999), Plaintiffs identify no other conduct allegedly warranting Rule 11 sanctions against Defendant or Defendant's counsel. *See* ECF 18, Exhibit 1 (Letter to Defendant, dated April 24, 2013).

III. ARGUMENT

A. Standard for Rule 11 Sanctions.

Federal Rule of Civil Procedure 11 provides that when an attorney presents to the court a pleading, written motion, or other paper, the attorney

> certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

> (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
> (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;
> (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
> (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

The test for sanctions under the Rule is "an objective one: that is whether a reasonable inquiry would have revealed there was no basis in law or fact for the asserted claim." *Maverick Entertainment Group Inc. v. Does 1-2, 115,* 276 F. R.D. 389, 395 (D.D.C. 2011).

In this case, Defendant's Motion to Dismiss and Renewed Motion to Dismiss, by their filing, have been certified under Rule 11 as filed for no improper motive and present facts and arguments made in good faith. Plaintiffs have failed to meet the substantive requirement of showing that, based on an objective evaluation of Defendant's conduct, that Defendant's representations to the Court violated Rule 11.

A. <u>Defendant's Representations to the Court Do Not Violate Rule 11.</u>

Courts have discretion to determine both whether a Rule 11 violation has occurred and what sanctions should be imposed if there has been a violation. *Cooter & Gell v. Hartmarx Corp*., 496 U.S. 384, 403–05 (1990) and *Rafferty v. NYNEX Corp.,* 60 F.3d 844, 851–52 (D.C.Cir.1995). In considering Rule 11 motions, courts are to apply an objective standard of reasonable inquiry on represented parties who sign papers or pleadings. *Bus. Guides, Inc. v. Chromatic Commc'ns Enters.,* 498 U.S. 533, 554 (1991); *see also Lucas v. Spellings*, 408 F. Supp. 2d 8, 11 (D.D.C. 2006), *vacated on other grounds by Lucas v. Duncan*, 574 F.3d 772 (D.C. Cir. 2009) ("Rule 11 ... is based upon an objective evaluation of the lawyer's

conduct."). "The imposition of Rule 11 sanctions is generally not something the court takes lightly; Rule 11 sanctions are an extreme punishment for filing pleadings that frustrate judicial proceedings." *Wasserman v.Rodacker*, 2007 WL 2071649 at *7 (D.D.C. July 18, 2007) (quoting *Taylor*, 2006 WL 279103 at *6 (D.D.C. February 6, 2006)).

An objective evaluation of Defendant's conduct demonstrates that nothing in his Motion to Dismiss or Renewed Motion frustrate these judicial proceedings. Indeed, Defendant has made efforts to interpret Plaintiffs' rambling arguments with multiple allegations in order to present a cogent argument on jurisdiction and standing. To the extent that Plaintiffs disagree with Defendant's analysis of the facts and law, that is not grounds for the imposition of sanctions under Rule 11.

There is no showing that Defendant's filings were made for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation. Fed. R. Civ. P. 11(b)(1). There is no showing that Defendant's arguments were frivolous. *Id.* at 11(b)(2). And, there is no showing that the factual contentions or denials were without support or unwarranted. *Id.* at 11(b)(3) and (4). Accordingly, there are no grounds upon which to grant Plaintiffs' motion for sanctions.

CONCLUSION

For the foregoing reasons, Defendant respectfully requests that Plaintiffs' Motion for Sanctions be denied.

Respectfully submitted,

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By: */s/ Claire Whitaker*

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing opposition was transmitted to Plaintiffs by first class mail, postage pre-paid, this 21st day of June, 2013, to:

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